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HOUSE OF REPRESENTATIVES

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I certify that the attached is a true and  
correct copy of HB #1451 which  
was filed of record on MAR 10 1987  
and referred to the committee on:

Natural Resources

*Betty Murray*  
Chief Clerk of the House

H.B. No. 1451

By *T. Amick*

A BILL TO BE ENTITLED

AN ACT

relating to minimum standards for underground water regulation by  
and the creation, operation, and financing of underground water  
districts.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 50, Water Code, is amended by adding  
Section 50.060 to read as follows:

Sec. 50.060. MINIMUM STANDARDS FOR UNDERGROUND WATER  
REGULATION. (a) In this section:

(1) "District" means a district that is authorized to  
regulate the spacing of or production from water wells or to  
conserve or prevent waste of underground water and includes  
districts created under Chapter 52 of this code.

(2) "Waste" has the meaning assigned by Section  
52.001(7) of this code.

(b) The commission may develop and adopt minimum standards  
for district regulation of spacing of or production from water  
wells, conservation of underground water, and prevention of waste  
of underground water.

(c) Not later than the 120th day after the effective date of  
standards or amendments to standards adopted by the commission  
under Subsection (b) of this section, a district affected by those  
standards shall adopt or amend its rules to meet or exceed the  
standards adopted by the commission.

1        (d) Each district shall enforce compliance with rules  
2 adopted to comply with the commission's minimum standards.

3        (e) If a district does not comply with Subsection (c) of  
4 this section, the commission may:

5                (1) issue an order directing the district to adopt  
6 rules that meet or exceed commission standards;

7                (2) issue an order as provided by Subsection (g) of  
8 this section; or

9                (3) issue any other order authorized by law.

10        (f) If a district fails to enforce its rules or substantial  
11 compliance with rules adopted under this section, the commission  
12 may:

13                (1) issue an order directing the district to enforce  
14 its rules;

15                (2) issue an order as provided by Subsection (g) of  
16 this section; or

17                (3) issue any other orders authorized by law.

18        (g) After a hearing held to determine whether to issue an  
19 order under Subsection (e) or (f) of this section, the commission  
20 by order may assume jurisdiction over the regulation of underground  
21 water in the district for a period the commission considers  
22 necessary. Also, the commission may adopt new rules for the  
23 district that the district would be authorized to adopt by law.  
24 The commission shall adopt and enforce rules under this subsection  
25 pursuant to the Administrative Procedure and Texas Register Act  
26 (Article 6252-13a, Vernon's Texas Civil Statutes).

27        (h) On approval of the commission, the executive director

1 may enforce any commission rule, order, or standard issued under  
2 this section. The executive director may seek enforcement of this  
3 section by requesting the attorney general to seek injunctive  
4 relief or other appropriate remedy in a court of competent  
5 jurisdiction. On request of the executive director, the attorney  
6 general shall institute suit to obtain injunctive relief or any  
7 other appropriate remedy.

8 SECTION 2. Sections 52.022 and 52.023, Water Code, are  
9 amended to read as follows:

10 Sec. 52.022. CREATION OF DISTRICTS [~~METHOD--OF--CREATING~~  
11 ~~DISTRICT~~]. The commission has jurisdiction to consider petitions  
12 for the creation of districts under this chapter [~~Except-as~~  
13 ~~otherwise-provided-by-this-subchapter,-the-provisions-in-Chapter-51~~  
14 ~~of-this-code-for-creating-water-control-and--improvement--districts~~  
15 ~~apply--to--the-creation-of-underground-water-conservation-districts~~  
16 ~~under-this-subchapter-to-the-extent-that-these--provisions--may--be~~  
17 ~~made-applicable~~].

18 Sec. 52.023. BOUNDARIES OF DISTRICT. (a) A district may  
19 include all or part of one or more counties, cities, districts, or  
20 other political subdivisions.

21 (b) The boundaries of a proposed district must be  
22 coterminous with or inside the boundaries of a management area  
23 previously designated by the commission under this subchapter.

24 SECTION 3. Subsections (a) and (d), Section 52.024, Water  
25 Code, are amended to read as follows:

26 (a) On its own motion from time to time, or on receiving a  
27 petition, the commission[~~,-after-notice-and-hearing-as-provided-by~~

1 ~~Sections 51.018 and 51.027-51.029 of this code,~~ shall designate  
2 underground water management areas. Each management area shall be  
3 designated with the objective of providing the most suitable area  
4 for the management of the underground water resources of the part  
5 of the state in which a new district or expanded existing district  
6 ~~[the]~~ district is to be located. To the extent feasible, the  
7 management area shall coincide with the boundaries of an  
8 underground water reservoir or a subdivision of an underground  
9 water reservoir. However, the commission also may consider other  
10 factors, including the boundaries of political subdivisions. The  
11 size and configuration of a management area shall be appropriate  
12 for the performance of the duties provided by Subchapter E of this  
13 chapter.

14 (d) When the commission has designated the boundaries of a  
15 management area as provided by this subchapter ~~[section]~~, its  
16 findings on the location of the boundaries and all other questions  
17 essential to the existence of a management area are conclusive and  
18 final unless a suit is brought under Section 52.401 of this code  
19 within the 30-day period immediately following the date on which  
20 the commission enters its order.

21 SECTION 4. Chapter 52, Water Code, is amended by adding  
22 Sections 52.0241 through 52.0245 to read as follows:

23 Sec. 52.0241. PROCEDURE FOR DESIGNATION OF MANAGEMENT AREAS.

24 (a) The rulemaking provisions of the Administrative Procedure and  
25 Texas Register Act (Article 6252-13a, Vernon's Texas Civil  
26 Statutes) apply to the designation by the commission of a  
27 management area or areas.

1        (b) Before adoption of a rule designating a management area,  
2        a public meeting must be held by the commission to allow interested  
3        persons to submit data, views, or arguments and to question any  
4        witnesses relating to evidence prepared for the commission relating  
5        to the configuration of a management area or areas.

6        Sec. 52.0242. PETITION FOR DESIGNATION OF MANAGEMENT AREA.

7        (a) A petition may be submitted to the commission for the sole  
8        purpose of requesting that the commission designate a management  
9        area or areas for all or part of one or more counties.

10       (b) A petition submitted under Subsection (a) of this  
11       section must be signed by 50 or more persons in each county for all  
12       or part of which designation of a management area or areas is  
13       requested.

14       (c) The petition must include a statement as follows:

15       "Petitioners request that the Texas Water Commission  
16       designate one or more underground water management areas to include  
17       all or part of \_\_\_\_\_ County. Each management area shall be  
18       designated with the objective of providing the most suitable area  
19       for the management of underground water resources of the part of  
20       the state in which a new district or expanded existing district is  
21       to be located. Petitioners understand that this petition requests  
22       only the designation of a management area or areas, but that all or  
23       part of the land in any management area designated may later be  
24       added to an existing underground water conservation district or  
25       become a new underground water conservation district as provided by  
26       Subchapter B, Chapter 52, Water Code."

27       (d) A petition may include any other information desired by

1 the petitioners concerning the purposes and functions of a  
2 management area or an underground water conservation district.

3 (e) The petitioners shall file the petition with the  
4 executive director for review in accordance with the rules of the  
5 commission.

6 (f) The petitioners shall supply any additional information  
7 requested by the commission or the executive director.

8 Sec. 52.0243. NOTICE FOR DESIGNATION OF MANAGEMENT AREA.

9 (a) In addition to the notice provided by Section 5,  
10 Administrative Procedure and Texas Register Act (Article 6252-13a,  
11 Vernon's Texas Civil Statutes), the petitioners shall have the  
12 notice issued by the chief clerk published in one or more  
13 newspapers with general circulation in each county in which the  
14 proposed district may be located not later than the 20th day before  
15 the date set for the hearing.

16 (b) The notice must include a map generally outlining the  
17 boundaries of the proposed district or additional area and the  
18 caption of the petition. The notice also shall state the time and  
19 place of the hearing.

20 Sec. 52.0244. PETITION FOR CREATION OF DISTRICT. (a) A  
21 petition requesting creation of a district, or the addition of land  
22 not within a management area to an existing district, must be  
23 submitted to the commission.

24 (b) The petition must be signed by:

25 (1) a majority of the persons who hold title to land  
26 in the proposed district or additional area or, if there are more  
27 than 50 persons holding title to land in the proposed district or

1 additional area, by 50 of them; or

2 (2) by persons who hold title to land in the proposed  
3 district or additional area that represents a total value of more  
4 than 50 percent of the value of all the land in the proposed  
5 district or additional area as indicated by the county tax rolls.

6 (c) No fewer than two copies of the petition must be filed.

7 (d) The petition must include:

8 (1) the name of the district;

9 (2) the area and boundaries of the district or  
10 additional area, including a map generally outlining the boundaries  
11 of the district or additional area;

12 (3) if the petition is for the creation of a district,  
13 the following statement:

14 "The \_\_\_\_\_ (name of district) is proposed to be created  
15 pursuant to Chapter 52, Water Code, and is to provide for the  
16 conservation, preservation, protection, recharging, and prevention  
17 of waste of the underground water within the district. The  
18 district will have the authority to make and enforce rules for  
19 these purposes including rules regulating the spacing and  
20 production of water wells and the prevention of pollution of the  
21 underground water reservoir";

22 (4) if no area within the proposed district is within  
23 a management area previously designated by the commission, a  
24 request that the commission designate a management area; and

25 (5) if the petition is for the addition of land not  
26 within a management area to an existing district, a statement  
27 generally describing the powers and purposes of the district, the

1 date and manner in which the district was created, and a request  
2 that the commission designate a management area.

3 (e) The petition may include any other information desired  
4 by the petitioners concerning the purposes and functions of an  
5 underground water conservation district.

6 (f) The petitioners shall file the petition with the  
7 executive director for review in accordance with the rules of the  
8 commission.

9 (g) A petition for the creation of a district is deemed to  
10 constitute a petition to designate a management area if no area  
11 within the proposed district is within a management area previously  
12 designated by the commission.

13 (h) A petition for the addition of land not within a  
14 management area to an existing district is deemed to constitute a  
15 petition to designate a management area.

16 (i) The petitioners shall supply any additional information  
17 requested by the commission or the executive director.

18 (j) If a management area designated by the commission  
19 includes land outside of the originally proposed district or  
20 originally proposed additional area described in the petition, the  
21 petition is not sufficient to create a district that includes land  
22 outside of the proposed district, or to add land outside of the  
23 additional area proposed to be added to an existing district,  
24 unless the petition is amended by obtaining the signatures as  
25 provided by this section for the original petition.

26 Sec. 52.0245. NOTICE FOR HEARING ON DISTRICT CREATION. (a)  
27 The petitioners shall have the notice issued by the chief clerk



1 concerning the hearing on the petition submitted under Section  
2 52.0244 of this code published not later than the 30th day before  
3 the date set for the hearing in a newspaper or newspapers with  
4 general circulation in each county in which the district sought to  
5 be created or the additional area may be located.

6 (b) The petitioners shall have the notice posted on the  
7 bulletin board used for posting legal notices in each county in  
8 which the district sought by the petitioners or the additional area  
9 may be located.

10 (c) The notice must include a map generally outlining the  
11 boundaries of the proposed district or additional area, a map,  
12 generally outlining the boundaries of the management area or  
13 proposed management area, and the caption of the petition. Also,  
14 the notice must state the time and place of the hearing and the  
15 date the management area, if any, was designated.

16 SECTION 5. Chapter 52, Water Code, is amended by adding  
17 Section 52.027 to read as follows:

18 Sec. 52.027. ADDING LAND TO EXISTING DISTRICT. (a) If land  
19 in a management area is located outside of and adjacent to one or  
20 more existing districts, the commission may on its own motion, on  
21 the motion of the executive director, or on the receipt of a  
22 petition by any interested party issue an order recommending that  
23 the land be added to one or more of the existing adjacent districts  
24 and ordering the board of the existing district if the board of the  
25 existing district votes to accept the additional area to call and  
26 hold an election within the area proposed to be added to the  
27 district to determine whether the area will be added to the

1 district.

2 (b) In its order the commission must find:

3 (1) the land and other property in the proposed  
4 additional area and the land in the existing district will benefit  
5 from the addition of the area to the district;

6 (2) there is a public need to add the additional area  
7 to the existing district; and

8 (3) addition of the land to the existing district  
9 would further the public welfare.

10 (c) The commission shall submit a copy of the order issued  
11 under this section to the board of the district to which it is  
12 recommended that the additional area be added.

13 (d) The petition shall be filed with the executive director  
14 for review in accordance with the rules of the commission. The  
15 petitioner shall supply any additional information requested by the  
16 commission or the executive director, and the petition must contain  
17 a description of the boundaries of the land to be added to the  
18 existing district and be accompanied by a bond payable to the  
19 commission and conditioned on the payment of, or by a deposit  
20 sufficient to pay, the costs of any election held under this  
21 section. The executive director shall determine the amount of the  
22 bond or deposit to be submitted.

23 (e) In its order accepting the additional land, the board  
24 shall call an election within the proposed additional area as  
25 delineated by the commission to determine if the area will be added  
26 to the district. The order shall specify the land to be added to  
27 the district according to the commission order and shall designate

1 election precincts and polling places for the election.

2 (f) The board shall give notice of the election and the  
3 proposition to be voted on by publishing notice of the election at  
4 least one time in one or more newspapers with general circulation  
5 within the boundary of the proposed additional area not later than  
6 the 30th day before the date of the election.

7 (g) The ballots for the election shall be printed to provide  
8 for voting for or against the proposition: "The inclusion of  
9 (briefly describe additional area) in the \_\_\_\_\_ District  
10 and assumption by the described area of a proportional share of the  
11 outstanding indebtedness of the district."

12 (h) If a majority of the voters in the proposed additional  
13 area voting on the proposition vote in favor of the proposition,  
14 the board shall declare that the area is added to the district. If  
15 a majority of the voters in the proposed additional area voting on  
16 the proposition vote against the proposition, the board shall  
17 declare that the area is not added to the district. The board  
18 shall file a copy of the election results and board action with the  
19 commission.

20 (i) If the voters approve the proposition to add land to the  
21 existing district, the costs of the election shall be paid by the  
22 existing district as expanded by the election. If the voters do  
23 not approve the proposition to add land to the existing district,  
24 the chief clerk of the commission shall deliver the bond or the  
25 deposit submitted with the petition to the board. If the costs of  
26 the election are not paid as provided by the terms of the bond or  
27 deposit, any proceeds from the bond or from the security forfeiture

1 shall be applied to the cost of the election and the board shall  
2 pay any additional costs. If the proceeds of the bond or the  
3 deposit exceed the actual cost of the election, the board shall  
4 return the excess to the petitioner.

5 (j) If the area is added to the existing district, the board  
6 of the district shall provide for the reasonable representation of  
7 the area on the board that is compatible with the district's  
8 existing scheme of representation.

9 (k) If the vote on the proposition to add the area to the  
10 existing district fails, an election to add the area to the same  
11 district or another district may not be called earlier than the end  
12 of the 12th month after the month in which the election on the  
13 proposition was held.

14 SECTION 6. Sections 52.060, 52.061, and 52.168, Water Code,  
15 are amended to read as follows:

16 Sec. 52.060. ADDING CRITICAL AREA TO EXISTING DISTRICT. (a)  
17 If land in a critical area is located outside of and adjacent to  
18 one or more existing districts, the commission, instead of issuing  
19 an order under Section 52.056(b) of this code, may issue an order  
20 recommending that the land be added to one or more of the existing  
21 adjacent districts and ordering the board of the existing district  
22 if it votes to accept the additional area to call and hold an  
23 election within the area proposed to be added to the district to  
24 determine whether the area will be added to the district.

25 (b) In its order the commission must find:

26 (1) the land and other property in the critical area  
27 and the land in the existing district will benefit from the

1 addition of the area to the district;

2 (2) there is a public need to add the land to the  
3 existing district; and

4 (3) addition of the land to the existing district  
5 would further the public welfare.

6 (c) In its order the commission may recommend that an area  
7 including less land than the designated critical area be added to  
8 one or more existing districts.

9 (d) The commission shall submit a copy of its order to the  
10 board of the district to which it is recommended that the critical  
11 area be added.

12 (e) In an order accepting the additional land in the  
13 critical area, the board shall call an election within the proposed  
14 additional area as delineated by the commission to determine if the  
15 area will be added to the district. The order shall specify the  
16 land to be added to the district according to the commission order  
17 and shall designate election precincts and polling places for the  
18 election.

19 (f) The board shall give notice of the election and the  
20 proposition to be voted on by publishing notice of the election at  
21 least one time in one or more newspapers with general circulation  
22 within the boundary of the proposed additional area not later than  
23 the 30th day before the date of the election.

24 (g) The ballots for the election shall be printed to provide  
25 for voting for or against the proposition: "The inclusion of  
26 (briefly describe additional area) in the \_\_\_\_\_ District  
27 and assumption by the described area of a proportional share of the

1 outstanding indebtedness of the district."

2 (h) If a majority of the voters in the additional area  
3 voting on the proposition vote in favor of the proposition, the  
4 board shall declare that the area is added to the district. If a  
5 majority of the voters in the additional area voting on the  
6 proposition vote against the proposition, the board shall declare  
7 that the area is not added to the district. The board shall file a  
8 copy of the election results and board action with the commission.

9 (i) If the area is added to the existing district, the board  
10 of the district shall provide for the reasonable representation of  
11 the area on the board that is compatible with the district's  
12 existing scheme of representation.

13 (j) If the vote on the proposition to add the area to the  
14 existing district fails, an election to add the area to the same  
15 district or another district may not be called earlier than the end  
16 of the 12th month after the month in which the election on the  
17 proposition was held. [(a)--If-land-in-a-critical-area-is--located  
18 adjacent-to-one-or-more-existing-districts,-the-commission,-instead  
19 of-issuing-an-order-under-Section-52-056(b)-of-this-code,-may-issue  
20 an--order--recommending--that--the--critical--area--be-added-to-the  
21 existing-district-designated-by--the--commission,-delineating--the  
22 boundaries--of--the--critical--area--proposed--to--be--added-to-the  
23 existing-district,-and-ordering-the-board-of-the-existing--district  
24 to--call--and--hold--on--the-same-day-separate-elections-within-the  
25 existing-district-and-within-the-critical-area-to-determine-whether  
26 the-critical-area-will-be-added-to-the-district,-In-its-order,-the  
27 commission-must-find-that--the--land--and--other--property--in--the

1 critical--area--and--the-land-in-the-existing-district-will-benefit  
2 from-the-addition-of-the-area;-that-there-is-a-public-need--to--add  
3 the--critical--area--to-the-existing-district;-and-that-addition-of  
4 the-land-to-the-existing-district-would-further-the-public-welfare-

5 [ (b)--If-the-department-recommends-that-the-critical-area--be  
6 added-to-an-existing-district-in-its-report-under-Section-52-053-of  
7 this-code-or-if-the-commission;-on-receiving-that-report;-considers  
8 it--possible--to--add--the--critical--area--to-an-adjacent-existing  
9 district;-the-commission-shall-give-notice-as-provided--by--Section  
10 52-054 (b)--of--this--code--to--the--board--of-the-existing-district  
11 recommended-by-the-department-or-considered-by--the--commission--to  
12 possibly--serve--the--area--and--to--any--other--existing-districts  
13 adjacent-to-the-critical-area-

14 [ (c)--The-commission-shall-submit-a-copy-of-the-order--issued  
15 under--this--section--to--the--board-of-the-district-to-which-it-is  
16 recommended-that-the-critical-area-be-added-

17 [ (d)--Within--10--days--after--receiving--a---copy---of---the  
18 commission's--order;-the-board-shall-call-on-the-same-day-separate  
19 elections-within-the-existing-district-and-within-the-critical-area  
20 as-delineated-by-the-commission-to-determine-if-the--critical--area  
21 will--be-added-to-the-district.--In-the-order-calling-the-election,  
22 the-board-shall-designate-election-precincts-and-polling-places-for  
23 the-elections-

24 [ (e)--The-board-shall-give-notice-of-the--elections--and--the  
25 proposition--to-be-voted-on.--The-board-shall-publish-notice-of-the  
26 elections-at-least-one-time-in-one-or-more-newspapers-with--general  
27 circulation--within-the-boundaries-of-the-existing-district-and-the

1 critical-area. --The notice must be published before--the--30th--day  
2 preceding the date set for the elections.

3 [ (f) --The--ballots--for--the--elections--shall--be--printed--to  
4 provide--for--voting--for--or--against--the--proposition--:"The--inclusion  
5 of----- (briefly--describe--critical--area)--in  
6 the-----District--and--assumption--by--the  
7 described--area--of--a--proportional--share--of--the--outstanding  
8 indebtedness--of--the--district."

9 [ (g) --Immediately after the elections, the presiding judge of  
10 each polling place shall deliver the returns of the election to the  
11 board, and the board shall canvass the--returns--for--the--election  
12 within--the--existing--district--and--the--election--within--the--critical  
13 area--separately--and--declare--the--results. ---If--a--majority--of--the  
14 voters--in--the--existing--district--and--a--majority--of--the--voters--in--the  
15 critical--area--voting--on--the--proposition--vote--in--favor--of--the  
16 proposition, the board shall declare--that--the--critical--area--is  
17 added--to--the--district. --If--a--majority--of--the--voters--in--either--or  
18 both--the--existing--district--and--the--critical--area--voting--on--the  
19 proposition--vote--against--adding--the--critical--area--to--the--district,  
20 the board shall declare--that--the--critical--area--is--not--added--to--the  
21 district. --The board shall file a copy of the election results with  
22 the department.

23 [ (h) --If--the--voters--approve--adding--the--critical--area--to--the  
24 district, the board of the district to which the critical--area--is  
25 added shall provide for the critical area reasonable representation  
26 on the board that is compatible with the district's existing scheme  
27 of representation.



1       [~~(i)~~--If the proposition is defeated,--no--further--elections  
2 may be called by the board to add the critical area to the district  
3 unless--the--procedures provided by this subchapter for designating  
4 and delineating critical areas and ordering--that--an--election--be  
5 held are followed in their entirety.]

6       Sec. 52.061. COSTS OF ELECTIONS. (a) The costs of an  
7 election to create a district at which a district is authorized to  
8 be created shall be paid by the district.

9       (b) The costs of an election to add land in a critical area  
10 to an existing district at which the voters approve adding the land  
11 in the critical area to the district shall be paid by the existing  
12 district.

13       (c) If at an election to create a district or add land in a  
14 critical area to an existing district the voters do not approve the  
15 proposition and the district is not created or the land in the  
16 critical area is not added to the existing district, the commission  
17 shall pay the costs of the election.

18       (d) The costs of an election to add land within a management  
19 area to an existing district shall be paid as provided by Section  
20 52.027 of this code.

21       Sec. 52.168. DRILLING, ETC., WITHOUT PERMIT. Except as  
22 provided by Section 52.170 of this code, no person, firm or  
23 corporation may begin to drill a well in the district, [~~or~~]  
24 substantially alter the size of a well or pump, or continue to  
25 operate a well that [~~which well~~] could produce 25,000 gallons or  
26 more of underground water a day from a reservoir or subdivision,  
27 without first obtaining a permit from the district or having a

1 valid current permit from the district.

2 SECTION 7. Chapter 52, Water Code, is amended by adding  
3 Sections 52.174 and 52.262 to read as follows:

4 Sec. 52.174. AUTHORITY TO ENTER INTO CONTRACTS. The  
5 district may contract with any person or political subdivision as  
6 necessary or appropriate to effectively exercise the authority  
7 provided by this chapter or to provide additional revenue to pay  
8 for the activities of the district. The consideration received by  
9 the district through a contract may be used to pay the operating  
10 and maintenance expenses of the district and to pay the principal  
11 of and interest on its bonds and notes.

12 Sec. 52.262. PERMIT FEES; USE FEES. (a) At the time of  
13 issuance or renewal of a permit, the district may collect from the  
14 permittee a permit fee.

15 (b) The amount of a permit fee may be based in part on the  
16 annual amount of water authorized by the district to be withdrawn  
17 by the permittee, the annual amount of water actually withdrawn by  
18 the permittee, the size of the well or wells, or the capacity of  
19 the pump or pumps used.

20 (c) A permittee may be assessed periodically by the district  
21 a fee based on the annual amount of water authorized by the  
22 district to be withdrawn, the annual amount of water actually  
23 withdrawn, the size of the well or wells, or the capacity of the  
24 pump or pumps used.

25 (d) For the purpose of computing a fee due under this  
26 section determined by the annual amount of water authorized to be  
27 withdrawn by a permittee, or the annual amount of water actually

1 withdrawn by a permittee, a period shorter than one year may be  
2 used.

3 (e) The issuance or renewal of a permit by the district may  
4 be conditioned on payment by the applicant or permittee of the  
5 permit or use fee assessed by the district.

6 (f) The funds received from permit fees or use fees  
7 collected under this section may be used to pay for the cost to the  
8 district in issuing permits and performing other authorized  
9 activities of the district. Also, the funds may be used to pay the  
10 operating and maintenance expenses of the district and to pay the  
11 principal of and interest on its bonds and notes.

12 SECTION 8. Section 52.292, Water Code, is amended to read as  
13 follows:

14 Sec. 52.292. MANNER OF REPAYMENT OF BONDS AND NOTES. The  
15 board may provide for the payment of principal of and interest on  
16 the bonds and notes in any one of the following manners:

17 (1) from the levy and collection of ad valorem taxes  
18 on all taxable property within the district;

19 (2) from fees imposed under Section 52.171 of this  
20 code;

21 (3) by pledging all or any part of the designated  
22 revenues from the ownership or operation of the district's works,  
23 improvements, and facilities and from the sale, transportation, and  
24 distribution of water; [e\*]

25 (4) from fees imposed under Section 52.262 of this  
26 code; or

27 (5) from a combination of the sources listed in

1 Subdivisions (1)-(4) [~~(1)-(3)~~] of this section.

2 SECTION 9. This Act takes effect September 1, 1987.

3 SECTION 10. The importance of this legislation and the  
4 crowded condition of the calendars in both houses create an  
5 emergency and an imperative public necessity that the  
6 constitutional rule requiring bills to be read on three several  
7 days in each house be suspended, and this rule is hereby suspended.

# HOUSE COMMITTEE REPORT

1907 MAY -5 PM 6:19  
HOUSE OF REPRESENTATIVES

## 1st Printing

By Smith of Travis

H.B. No. 1451

Substitute the following for H.B. No. 1451:

By Shelley

C.S.H.B. No. 1451

A BILL TO BE ENTITLED

AN ACT

relating to minimum standards for underground water management by  
and the creation, operation, and financing of underground water  
districts.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 50, Water Code, is amended by adding  
Section 50.060 to read as follows:

Sec. 50.060. MINIMUM STANDARDS FOR UNDERGROUND WATER  
MANAGEMENT. (a) In this section:

(1) "District" means a district that is authorized to  
regulate the spacing of or production from water wells or to  
conserve or prevent waste of underground water and includes  
districts created under Chapter 52 of this code.

(2) "Waste" has the meaning assigned by Section  
52.001(7) of this code.

(b) The commission may develop and adopt reasonable minimum  
standards with which each district must comply in exercising the  
powers and performing the duties provided by Subchapter E, Chapter  
52, of this code, or the law under which the district is created.

(c) Not later than the 120th day after the effective date of  
standards or amendments to standards adopted by the commission  
under Subsection (b) of this section, the district affected by  
those standards shall adopt or amend its rules to meet or exceed  
the standards adopted by the commission.

1       (d) Each district shall enforce compliance with rules  
2 adopted to comply with the commission's minimum standards.

3       (e) If a district does not comply with Subsection (c) of  
4 this section, the commission may:

5           (1) issue an order directing the district to adopt  
6 rules that meet or exceed commission standards for the district;

7           (2) issue an order as provided by Subsection (g) of  
8 this section; or

9           (3) issue any other order authorized by law.

10       (f) If a district fails to enforce its rules or substantial  
11 compliance with rules adopted under this section, the commission  
12 may:

13           (1) issue an order directing the district to enforce  
14 its rules;

15           (2) issue an order as provided by Subsection (g) of  
16 this section; or

17           (3) issue any other orders authorized by law.

18       (g) After a hearing held to determine whether to issue an  
19 order under Subsection (e) or (f) of this section, the commission  
20 by order may assume jurisdiction over the management of underground  
21 water in the district for a period the commission considers  
22 necessary. Also, the commission may adopt new rules for the  
23 district that the district would be authorized to adopt by law.  
24 The commission shall adopt and enforce rules under this subsection  
25 pursuant to the Administrative Procedure and Texas Register Act  
26 (Article 6252-13a, Vernon's Texas Civil Statutes).

27       (h) On approval of the commission, the executive director

1 may enforce any commission rule, order, or standard issued under  
 2 this section. The executive director may seek enforcement of this  
 3 section by requesting the attorney general to seek injunctive  
 4 relief or other appropriate remedy in a court of competent  
 5 jurisdiction. On request of the executive director, the attorney  
 6 general shall institute suit to obtain injunctive relief or any  
 7 other appropriate remedy.

8 SECTION 2. Sections 52.022 and 52.023, Water Code, are  
 9 amended to read as follows:

10 Sec. 52.022. CREATION OF DISTRICTS [~~METHOD--OF---CREATING~~  
 11 ~~DISTRICT~~]. The commission has jurisdiction to consider petitions  
 12 for the creation of districts under this chapter [~~Except--as~~  
 13 ~~otherwise-provided-by-this-subchapter,--the-provisions-in-Chapter-51~~  
 14 ~~of--this--code-for-creating-water-control-and-improvement-districts~~  
 15 ~~apply-to-the-creation-of-underground-water--conservation--districts~~  
 16 ~~under--this--subchapter--to-the-extent-that-these-provisions-may-be~~  
 17 ~~made-applicable~~].

18 Sec. 52.023. BOUNDARIES OF DISTRICT. (a) A district may  
 19 include all or part of one or more counties, cities, districts, or  
 20 other political subdivisions.

21 (b) The boundaries of a proposed district must be  
 22 coterminous with or inside the boundaries of a management area  
 23 designated by the commission under this subchapter.

24 SECTION 3. Subsections (a) and (d), Section 52.024, Water  
 25 Code, are amended to read as follows:

26 (a) On its own motion from time to time, or on receiving a  
 27 petition, the commission[~~,--after-notice-and-hearing-as-provided--by~~

Sections--51.018--and--51.027-51.029-of-this-code,] shall designate underground water management areas. Each management area shall be designated with the objective of providing the most suitable area for the management of the underground water resources of the part of the state in which a new district or expanded existing [the] district is to be located. To the extent feasible, the management area shall coincide with the boundaries of an underground water reservoir or a subdivision of an underground water reservoir. However, the commission also may consider other factors, including the boundaries of political subdivisions. The size and configuration of a management area shall be appropriate for the performance of the duties provided by Subchapter E of this chapter.

(d) When the commission has designated the boundaries of a management area as provided by this subchapter [section], its findings on the location of the boundaries and all other questions essential to the existence of a management area are conclusive and final unless a suit is brought under Section 52.401 of this code within the 30-day period immediately following the date on which the commission enters its order.

SECTION 4. Chapter 52, Water Code, is amended by adding Sections 52.0241 through 52.0243 to read as follows:

Sec. 52.0241. PROCEDURE FOR DESIGNATION OF MANAGEMENT AREAS.

(a) The rulemaking provisions of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) apply to the designation by the commission of a management area or areas.

(b) Before adoption of a rule designating a management area,



1 a public meeting must be held by the commission to allow interested  
2 persons to submit data, views, or arguments and to question any  
3 witnesses relating to evidence prepared for the commission relating  
4 to the configuration of a management area or areas.

5 Sec. 52.0242. PETITION FOR DESIGNATION OF MANAGEMENT AREA.

6 (a) A petition may be submitted to the commission for the sole  
7 purpose of requesting that the commission designate a management  
8 area or areas for all or part of one or more counties.

9 (b) A petition submitted under Subsection (a) of this  
10 section must be signed by 50 or more persons in each county for all  
11 or part of which designation of a management area or areas is  
12 requested.

13 (c) The petition must include a statement as follows:

14 "Petitioners request that the Texas Water Commission  
15 designate one or more underground water management areas to include  
16 all or part of \_\_\_\_\_ County (counties). Each management area  
17 shall be designated with the objective of providing the most  
18 suitable area for the management of underground water resources of  
19 the part of the state in which a new district or expanded existing  
20 district is to be located. Petitioners understand that this  
21 petition requests only the designation of a management area or  
22 areas, but that all or part of the land in any management area  
23 designated may later be added to an existing underground water  
24 conservation district or become a new underground water  
25 conservation district as provided by Subchapter B, Chapter 52,  
26 Water Code."

27 (d) A petition shall include a map showing the location of

1 the proposed management area and may include any other information  
2 desired by the petitioners concerning the proposed management area.

3 (e) The petitioners shall file the petition with the  
4 executive director for review in accordance with the rules of the  
5 commission.

6 (f) The petitioners shall supply any additional information  
7 requested by the commission or the executive director.

8 Sec. 52.0243. NOTICE FOR DESIGNATION OF MANAGEMENT AREA.

9 (a) In addition to the notice provided by Section 5,  
10 Administrative Procedure and Texas Register Act (Article 6252-13a,  
11 Vernon's Texas Civil Statutes), the petitioners shall have the  
12 notice issued by the chief clerk published in one or more  
13 newspapers with general circulation in each county in which the  
14 proposed management area or district may be located not later than  
15 the 20th day before the date set for the hearing.

16 (b) The notice must include a map generally outlining the  
17 boundaries of the proposed management area, district, or additional  
18 area and the caption of the petition. The notice also shall state  
19 the time and place of the hearing.

20 SECTION 5. Chapter 52, Water Code, is amended by amending  
21 Sections 52.025 and 52.026 and adding Sections 52.027 through  
22 52.034 to read as follows:

23 Sec. 52.025. PETITION FOR CREATION OF DISTRICT OR ADDING  
24 LAND TO AN EXISTING DISTRICT. (a) A petition requesting creation  
25 of a district, or the addition of land to an existing district,  
26 must be filed with the executive director for review and submission  
27 to the commission.

1        (b) The petition must be signed by:

2                (1) a majority of the persons who hold title to land  
3 in the proposed district or additional area or, if there are more  
4 than 50 persons holding title to land in the proposed district or  
5 additional area, by 50 of them; or

6                (2) persons who hold title to land in the proposed  
7 district or additional area that represents a total value of more  
8 than 50 percent of the value of all the land in the proposed  
9 district or additional area as indicated by the county tax rolls.

10        (c) No fewer than two copies of the petition must be filed.

11        (d) The petition must include:

12                (1) the name of the proposed district;

13                (2) the area and boundaries of the proposed district  
14 or additional area, including a map generally outlining the  
15 boundaries of the proposed district or additional area;

16                (3) if the petition is for the creation of a district,  
17 the following statement:

18                "The \_\_\_\_\_ (name of district) is proposed to be created  
19 pursuant to Chapter 52, Water Code, and is to provide for the  
20 conservation, preservation, protection, recharging, and prevention  
21 of waste of the underground water within the district. The  
22 district will have the authority to make and enforce rules for  
23 these purposes including rules regulating the spacing and  
24 production of water wells and the prevention of pollution of  
25 underground water.";

26                (4) if no area within the proposed district is within  
27 a management area designated by the commission, a request that the

1 commission designate a management area; and

2 (5) if the petition is for the addition of land not  
3 within a management area to an existing district, a statement  
4 generally describing the powers and purposes of the district, the  
5 date and manner in which the district was created, and a request  
6 that the commission designate a management area.

7 (e) The petition may include any other information desired  
8 by the petitioners concerning the need for the proposed district.

9 (f) The petitioners shall file the petition with the  
10 executive director for review in accordance with the rules of the  
11 commission.

12 (g) A petition for the creation of a district is deemed to  
13 constitute a petition to designate a management area if no area  
14 within the proposed district is within a management area previously  
15 designated by the commission.

16 (h) A petition for the addition of land not within a  
17 management area to an existing district is deemed to constitute a  
18 petition to designate a management area.

19 (i) The petitioners shall supply any additional information  
20 requested by the commission or the executive director.

21 (j) If a management area designated by the commission in  
22 response to a petition for creation of a district differs  
23 substantially from the area described by the petition, a new  
24 petition and hearing are required for creation of a district. In  
25 its ruling designating the management area, the commission shall  
26 include a ruling as to whether the management area differs  
27 substantially from the area described by the petition.

1       Sec. 52.026. NOTICE FOR HEARING ON DISTRICT CREATION OR  
2       ADDITION OF LAND TO A DISTRICT. (a) The petitioners shall have  
3       the notice issued by the chief clerk concerning the hearing on the  
4       petition submitted under Section 52.025 of this code published not  
5       later than the 30th day before the date set for the hearing in a  
6       newspaper or newspapers with general circulation in each county in  
7       which the district sought to be created or the additional area may  
8       be located.

9       (b) The petitioners shall have the notice posted on the  
10       bulletin board used for posting legal notices in each county in  
11       which the district sought by the petitioners or the additional area  
12       may be located.

13       (c) The notice must include a map generally outlining the  
14       boundaries of the proposed district or additional area and the  
15       caption of the petition. Also, the notice must state the time and  
16       place of the hearing.

17       Sec. 52.027. HEARING BY COMMISSION. At the hearing, the  
18       commission shall hear testimony and receive evidence relating to  
19       whether the proposed district should be created or whether the  
20       proposed additional land should be added to the existing district.

21       Sec. 52.028. COMMISSION ORDER. (a) At the conclusion of  
22       the hearing, the commission shall issue an order stating its  
23       findings and conclusions.

24       (b) If the commission finds that creation of a district  
25       would be feasible and practicable and a benefit to the land and  
26       other property within the area, would meet a public need, and would  
27       further the public welfare, the commission shall issue an order

1 proposing the creation of a district, delineating the boundaries of  
2 the proposed district, directing that an election be held within  
3 the boundaries of the proposed district to determine if the  
4 district will be created, and appointing temporary directors for  
5 the proposed district.

6 (c) If the commission finds that the proposed addition of  
7 land to an existing district would be feasible and practicable and  
8 a benefit to the land and other property in the district and in the  
9 proposed additional area, would meet a public need, and would  
10 further the public welfare, the commission shall issue an order  
11 recommending that the proposed land be added to the existing  
12 district. The order shall specify that, if the board of the  
13 district votes to accept the additional area, it shall call an  
14 election within the proposed additional area to determine if the  
15 area will be added to the district and shall designate election  
16 precincts and polling places for the elections.

17 (d) If the commission does not find that creation of a  
18 district or the proposed addition of land to an existing district  
19 would be feasible and practicable and a benefit to land and other  
20 property, would meet a public need, or would further the public  
21 welfare, the commission shall issue an order denying the petition.

22 (e) An order of the commission issued under this section may  
23 not be appealed.

24 Sec. 52.029. TEMPORARY DIRECTORS. (a) If the commission  
25 orders an election to be held to determine whether a district  
26 should be created, it shall appoint five temporary directors who  
27 shall serve until the initial directors are elected and have

1 qualified for office or until the voters fail to approve creation  
2 of the district.

3 (b) Not later than the 15th day after the date a person is  
4 appointed to be a temporary director, the person shall take the  
5 oath of office.

6 (c) If an appointee of the commission fails to qualify or if  
7 a vacancy occurs in the office of temporary director, the  
8 commission shall appoint an individual to fill the vacancy.

9 (d) As soon as all temporary directors have qualified, the  
10 directors shall meet and elect a chairman and vice-chairman from  
11 their membership. The chairman shall preside at all meetings of  
12 the board, and in his absence, the vice-chairman shall preside.

13 Sec. 52.030. ELECTION FOR CREATION OF A DISTRICT. An  
14 election to determine if a district will be created shall be held  
15 in accordance with Section 52.058 of this code.

16 Sec. 52.031. BOND AND TAX PROPOSITION. (a) At an election  
17 to create a district, the temporary directors may include in a  
18 proposition for the issuance of bonds the levy of taxes to pay for  
19 all or part of the bonds and the levy of a maintenance tax at a  
20 rate not to exceed 10 cents on each \$100 of assessed valuation.

21 (b) The temporary directors shall include in any bond and  
22 tax proposition the maximum amount of bonds to be issued and their  
23 maximum maturity date.

24 Sec. 52.032. ELECTION FOR ADDING LAND TO AN EXISTING  
25 DISTRICT. (a) If the board of an existing district votes to  
26 accept an additional area, it shall give notice of the election to  
27 be held within the proposed additional area and the proposition to

1 be voted on by publishing notice of the election at least one time  
2 in one or more newspapers with general circulation within the  
3 boundaries of the additional area not later than the 30th day  
4 before the date of the election.

5 (b) The ballots for the election shall be printed to provide  
6 for voting for or against the proposition: "The inclusion of  
7 (briefly describe additional area) in the (name of district), the  
8 assumption by the described area of a proportional share of the  
9 outstanding and voted but unissued tax bonds of the district, and  
10 the levy of an ad valorem tax in the described area to pay the  
11 principal of and interest on those bonds."

12 (c) If a majority of the voters in the proposed additional  
13 area voting on the proposition vote in favor of the proposition,  
14 the board shall declare that the area is added to the district. If  
15 a majority of the voters in the additional area voting on the  
16 proposition vote against the proposition, the board shall declare  
17 that the area is not added to the district. The board shall file a  
18 copy of the election results and board action with the commission.

19 (d) If the area is added to the existing district, the board  
20 of the district shall provide for the reasonable representation of  
21 the area on the board that is compatible with the district's  
22 existing scheme of representation.

23 (e) If the vote on the proposition fails, an election to add  
24 the area to the same district or another district may not be called  
25 before the end of the 12th month after the month in which the  
26 election on the proposition was held.

27 Sec. 52.033. COSTS OF ELECTIONS. (a) The costs of an



election held as provided by this subchapter shall be paid by the county or counties in which the proposed district or the additional area is located. If an election is held in more than one county, each county shall pay the costs of holding the election within its boundaries.

(b) If the election results in the creation of a new or expanded district, the district shall reimburse the county or counties for the costs of the election.

(c) If the vote on the proposition to create a district or to add additional area to an existing district fails, the commission shall reimburse the county or counties for the costs of the election.

Sec. 52.034. ~~[FINDINGS--(a)--If the commission finds that a district is feasible and practicable, that it would be a benefit to land in the district, and that it would be a public benefit or utility, the commission shall make these findings and grant the petition.~~

~~[(b)--If the commission finds that the district is not feasible and practicable, that it would not be a benefit to land in the district, that it would not be a public benefit or utility, or that it is not needed, the commission shall refuse to grant the petition.~~

[~~See 52.026~~] APPLICATION OF SUBCHAPTER. The provisions of this subchapter apply only to districts created under this subchapter.

SECTION 6. Sections 52.060, 52.061, 52.0611, 52.151, and 52.168, Water Code, are amended to read as follows:

1           Sec. 52.060.   ADDING CRITICAL AREA TO EXISTING DISTRICT.   (a)

2   If land in a critical area is located outside and adjacent to one  
3   or more existing districts, the commission, instead of issuing an  
4   order under Section 52.056(b) of this code, may issue an order  
5   recommending that the land be added to one or more of the existing  
6   adjacent districts and ordering the board of the existing district  
7   if it votes to accept the additional area to call and hold an  
8   election within the area proposed to be added to the district to  
9   determine whether the area will be added to the district.

10           (b)   In its order the commission must find that:

11                   (1)   the land and other property in the critical area  
12                   and the land in the existing district will benefit from the  
13                   addition of the area to the district;

14                   (2)   there is a public need to add the land to the  
15                   existing district; and

16                   (3)   addition of the land to the existing district  
17                   would further the public welfare.

18           (c)   In its order the commission may recommend that an area  
19                   including less land than the designated critical area be added to  
20                   one or more existing districts.

21           (d)   The commission shall submit a copy of its order to the  
22                   board of the district to which it is recommended that the critical  
23                   area be added.

24           (e)   In an order accepting the additional land in the  
25                   critical area, the board shall call an election within the proposed  
26                   additional area as delineated by the commission to determine if the  
27                   area will be added to the district. The order shall specify the

1 land to be added to the district according to the commission order  
2 and shall designate election precincts and polling places for the  
3 election.

4 (f) The board shall give notice of the election and the  
5 propositions to be voted on by publishing notice of the election at  
6 least one time in one or more newspapers with general circulation  
7 within the boundary of the proposed additional area not later than  
8 the 30th day before the date of the election.

9 (g) The ballots for the election shall be printed to provide  
10 for voting for or against the proposition: "The inclusion of  
11 (briefly describe additional area) in the \_\_\_\_\_ District,  
12 the assumption by the described area of a proportional share of the  
13 outstanding and voted but unissued tax bonds of the district, and  
14 the levy of an ad valorem tax in the described area to pay the  
15 principal of and interest on those bonds."

16 (h) If a majority of the voters in the additional area  
17 voting on the proposition vote in favor of the proposition, the  
18 board shall declare that the area is added to the district. If a  
19 majority of the voters in the additional area voting on the  
20 proposition vote against the proposition, the board shall declare  
21 that the area is not added to the district. The board shall file a  
22 copy of the election results and board action with the commission.

23 (i) If the area is added to the existing district, the board  
24 of the district shall provide for the reasonable representation of  
25 the area on the board that is compatible with the district's  
26 existing scheme of representation.

27 (j) If the vote on the proposition to add the area to the

1 existing district fails, an election to add the area to the same  
 2 district or another district may not be called earlier than the end  
 3 of the 12th month after the month in which the election on the  
 4 proposition was held. [ (a) -- If land in a critical area is located

5 adjacent to one or more existing districts, the commission, instead  
 6 of issuing an order under Section 52-056 (b) of this code, may issue  
 7 an order recommending that the critical area be added to the  
 8 existing district designated by the commission, delineating the  
 9 boundaries of the critical area proposed to be added to the  
 10 existing district, and ordering the board of the existing district  
 11 to call and hold on the same day separate elections within the  
 12 existing district and within the critical area to determine whether  
 13 the critical area will be added to the district. In its order, the  
 14 commission must find that the land and other property in the  
 15 critical area and the land in the existing district will benefit  
 16 from the addition of the area, that there is a public need to add  
 17 the critical area to the existing district, and that addition of  
 18 the land to the existing district would further the public welfare.

19 [ (b) -- If the department recommends that the critical area be  
 20 added to an existing district in its report under Section 52-053 of  
 21 this code or if the commission, on receiving that report, considers  
 22 it possible to add the critical area to an adjacent existing  
 23 district, the commission shall give notice as provided by Section  
 24 52-054 (b) of this code to the board of the existing district  
 25 recommended by the department or considered by the commission to  
 26 possibly serve the area and to any other existing districts  
 27 adjacent to the critical area.

1 [ (c) -- The commission shall submit a copy of the order issued  
2 under this section to the board of the district to which it is  
3 recommended that the critical area be added.

4 [ (d) -- Within 10 days after receiving a copy of the  
5 commission's order, the board shall call on the same day separate  
6 elections within the existing district and within the critical area  
7 as delineated by the commission to determine if the critical area  
8 will be added to the district. In the order calling the election,  
9 the board shall designate election precincts and polling places for  
10 the elections.

11 [ (e) -- The board shall give notice of the elections and the  
12 proposition to be voted on. The board shall publish notice of the  
13 elections at least one time in one or more newspapers with general  
14 circulation within the boundaries of the existing district and the  
15 critical area. The notice must be published before the 30th day  
16 preceding the date set for the elections.

17 [ (f) -- The ballots for the elections shall be printed to  
18 provide for voting for or against the proposition. "The inclusion  
19 of \_\_\_\_\_ (briefly describe critical area) in  
20 the \_\_\_\_\_ District and assumption by the  
21 described area of a proportional share of the outstanding  
22 indebtedness of the district. "

23 [ (g) -- Immediately after the elections, the presiding judge of  
24 each polling place shall deliver the returns of the election to the  
25 board, and the board shall canvass the returns for the election  
26 within the existing district and the election within the critical  
27 area separately and declare the results. If a majority of the

1 voters-in-the-existing-district-and-a-majority-of-the-voters-in-the  
 2 critical--area--voting--on--the--proposition--vote--in-favor-of-the  
 3 proposition, the-board-shall-declare--that--the--critical--area--is  
 4 added--to--the--district. --If-a-majority-of-the-voters-in-either-or  
 5 both-the-existing-district-and-the--critical--area--voting--on--the  
 6 proposition--vote-against-adding-the-critical-area-to-the-district,  
 7 the-board-shall-declare-that-the-critical-area-is-not-added-to--the  
 8 district. --The-board-shall-file-a-copy-of-the-election-results-with  
 9 the-department.

10 [ (h) --If--the--voters-approve-adding-the-critical-area-to-the  
 11 district, the-board-of-the-district-to-which-the-critical--area--is  
 12 added-shall-provide-for-the-critical-area-reasonable-representation  
 13 on-the-board-that-is-compatible-with-the-district's-existing-scheme  
 14 of-representation.

15 [ (i) --If--the--proposition--is-defeated, no-further-elections  
 16 may-be-called-by-the-board-to-add-the-critical-area-to-the-district  
 17 unless-the-procedures-provided-by-this-subchapter--for--designating  
 18 and--delineating--critical--areas--and-ordering-that-an-election-be  
 19 held-are-followed-in-their-entirety. ]

20 Sec. 52.061. COSTS OF ELECTIONS. (a) The costs of an  
 21 election held as provided by this subchapter [~~to-create-a-district~~  
 22 ~~at-which-a-district-is-authorized-to-be-created~~] shall be paid by  
 23 the county or counties in which the proposed district or the area  
 24 within a critical area proposed to be added to an existing district  
 25 is located. If an election is held in more than one county, each  
 26 county shall pay the costs of holding the election within its  
 27 boundaries.

1        (b) If the election results in the creation of a new or  
2 expanded district, the district shall reimburse the county or  
3 counties for the costs of the election.

4        (c) If the vote on the proposition to create a district or  
5 to add an area within a critical area to an existing district  
6 fails, the commission shall reimburse the county or counties for  
7 the costs of the election.

8        [~~(b)--The--costs--of--an--election--to--add--a--critical--area--to--an~~  
9 ~~existing-district-at-which-the-voters-approve-adding--the--critical~~  
10 ~~area-to-the-district-shall-be-paid-by-the-existing-district-~~

11        [~~(e)--If--at--an--election--to--create--a--district--or--add--a~~  
12 ~~critical-area-to-an-existing-district-the-voters-do-not-approve-the~~  
13 ~~proposition-and-the-district-is-not-created-or-the-critical-area-is~~  
14 ~~not-added-to-the-existing-district,-the-commission--shall--pay--the~~  
15 ~~costs-of-the-election-]~~

16        Sec. 52.151. RULE-MAKING POWER. (a) A district may make  
17 and enforce reasonable rules [~~to---provide---for---conserving,~~  
18 ~~preserving,-protecting,-recharging,-controlling--subsidence,-and~~  
19 ~~preventing-waste-of-the-underground-water-of-an--underground--water~~  
20 ~~reservoir--or--its--subdivisions--and]~~ to carry out the powers and  
21 duties provided by this chapter.

22        (b) Rules adopted by the district under this section may not  
23 restrict or limit the development of land or the construction of  
24 any residential subdivision or any public or private industrial,  
25 commercial, or multifamily construction.

26        Sec. 52.168. DRILLING, ETC., WITHOUT PERMIT. Except as  
27 provided by Section 52.170 of this code, no person, firm or

1 corporation may begin to drill a well in the district, [or]  
2 substantially alter the size of a well or pump, or continue to  
3 operate a well that [~~which-well~~] could produce 25,000 gallons or  
4 more of underground water a day from a reservoir or subdivision,  
5 without first obtaining a permit from the district or having a  
6 valid current permit from the district.

7 SECTION 7. Subsection (b), Section 52.154, Water Code, is  
8 amended to read as follows:

9 (b) A person may appeal the reasonableness and validity of a  
10 rule adopted by a district as provided by Subchapter I of this  
11 chapter after an appeal to the commission under rules adopted by  
12 the commission. If the commission determines that a rule is  
13 unreasonable or otherwise invalid, it shall declare that the rule  
14 is null and void.

15 SECTION 8. Subsection (e), Section 52.170, Water Code, is  
16 amended to read as follows:

17 (e) Nothing in this chapter applies to wells drilled for  
18 oil, gas, sulphur, uranium, or brine, or for core tests, or for  
19 injection of gas, salt water, or other fluid, or for any other  
20 purpose, under permits issued by the commission or the Railroad  
21 Commission of Texas. The district may not require a permit to  
22 drill a well to supply water for drilling any of these wells  
23 permitted by the commission or the Railroad Commission of Texas.  
24 When the well ceases to be used for these purposes, it may then be  
25 used as an ordinary water well if it meets the spacing and other  
26 rules of the district; and its use is subject to the rules of the  
27 district.



1           SECTION 9. Chapter 52, Water Code, is amended by adding  
2 Sections 52.1651, 52.174, and 52.262 to read as follows:

3           Sec. 52.1651. WELL COMPLETION STANDARDS. The district may  
4 adopt standards requiring installation of casing, pipe, and  
5 fittings for water wells to prevent the escape of underground water  
6 from an underground water reservoir to any reservoir not containing  
7 underground water and to prevent the pollution or harmful  
8 alteration of the character of the water in any underground water  
9 reservoir.

10          Sec. 52.174. AUTHORITY TO ENTER INTO CONTRACTS. The  
11 district may contract with any person or political subdivision as  
12 necessary or appropriate to effectively exercise the authority  
13 provided by this chapter or to provide additional revenue to pay  
14 for the activities of the district. The consideration received by  
15 the district through a contract may be used to pay the operating  
16 and maintenance expenses of the district and to pay the principal  
17 of and interest on its bonds and notes.

18          Sec. 52.262. PERMIT FEES; USE FEES. (a) At the time of  
19 issuance or renewal of a permit, the district may collect from the  
20 permittee a permit fee.

21          (b) The amount of a permit fee may be based in part on the  
22 annual amount of water authorized by the district to be withdrawn  
23 by the permittee, the annual amount of water actually withdrawn by  
24 the permittee, the size of the well or wells, or the capacity of  
25 the pump or pumps used.

26          (c) A permittee may be assessed periodically by the district  
27 a fee based on the annual amount of water authorized by the

1 district to be withdrawn, the annual amount of water actually  
2 withdrawn, the size of the well or wells, or the capacity of the  
3 pump or pumps used.

4 (d) For the purpose of computing a fee due under this  
5 section determined by the annual amount of water authorized to be  
6 withdrawn by a permittee, or the annual amount of water actually  
7 withdrawn by a permittee, a period shorter than one year may be  
8 used.

9 (e) The issuance or renewal of a permit by the district may  
10 be conditioned on payment by the applicant or permittee of the  
11 permit or use fee assessed by the district.

12 (f) The funds received from permit fees or use fees  
13 collected under this section may be used to pay for the cost to the  
14 district in issuing permits and performing other authorized  
15 activities of the district. Also, the funds may be used to pay the  
16 operating and maintenance expenses of the district and to pay the  
17 principal of and interest on its bonds and notes.

18 SECTION 10. Section 52.292, Water Code, is amended to read  
19 as follows:

20 Sec. 52.292. MANNER OF REPAYMENT OF BONDS AND NOTES. The  
21 board may provide for the payment of principal of and interest on  
22 the bonds and notes in any one of the following manners:

23 (1) from the levy and collection of ad valorem taxes  
24 on all taxable property within the district;

25 (2) from fees imposed under Sections [~~Section~~] 52.171  
26 and 52.262 of this code;

27 (3) by pledging all or any part of the designated

1 revenues from the ownership or operation of the district's works,  
2 improvements, and facilities and from the sale, transportation, and  
3 distribution of water; or

4 (4) from a combination of the sources listed in  
5 Subdivisions (1)-(3) of this section.

6 SECTION 11. Subsection (b), Section 52.351, Water Code, is  
7 amended to read as follows:

8 (b) The board may annually levy taxes to pay the maintenance  
9 and operating expenses of the district at a rate not to exceed 10  
10 [~~50~~] cents on each \$100 of assessed valuation.

11 SECTION 12. Section 52.063, Water Code, is repealed.

12 SECTION 13. This Act takes effect September 1, 1987.

13 SECTION 14. The importance of this legislation and the  
14 crowded condition of the calendars in both houses create an  
15 emergency and an imperative public necessity that the  
16 constitutional rule requiring bills to be read on three several  
17 days in each house be suspended, and this rule is hereby suspended.

# COMMITTEE REPORT

The Honorable Gib Lewis  
Speaker of the House of Representatives

4-27-87

(date)

Sir:

We, your COMMITTEE ON NATURAL RESOURCES,

to whom was referred HB 1451 have had the same under consideration and beg to report  
(measure)  
back with the recommendation that it

( ) do pass, without amendment.

( ) do pass, with amendment(s).

(X) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. (X) yes ( ) no

An actuarial analysis was requested. ( ) yes (X) no

An author's fiscal statement was requested. ( ) yes (X) no

The Committee recommends that this measure be placed on the ~~(Local)~~ or ~~(Consent)~~ Calendar.

This measure (X) proposes new law. (X) amends existing law.

House Sponsor of Senate Measure \_\_\_\_\_

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Smith, T., Ch.	X			
Harris, J., V.C.	X			
Johnson, C., C.B.O.				X
Hammond	X			
Holzheuser	X			
Russell	X			
Shelley	X			
Toomey	X			
Yost		-X		

Total

7 aye

1 nay

0 present, not voting

1 absent

  
CHAIRMAN

  
COMMITTEE COORDINATOR

HB 1451  
By: T. Smith

Committee on  
Natural Resources

## BILL ANALYSIS

### Background

Under current law, the requirements for creation of underground water districts are divided between Chapters 51 and 52 of the Water Code, and this division has caused some confusion. There are no provisions for minimum standards that a groundwater district must meet or for Commission action if an underground water district fails to properly regulate underground water. Although a permit is required to construct a well, there are no permits or fees relating to operating a well.

### Purpose of the Bill

This bill would consolidate all the requirements for creation of an underground water district in Chapter 52, Water Code, and allow the Texas Water Commission to set minimum standards for the operation of districts with the enforcement provisions.

### Section by Section Analysis

- SECTION 1. Amends Chapter 50, Water Code, by adding Section 50.060. Defines terms. Provides that the Texas Water Commission may adopt rules and minimum standards for groundwater conservation. Requires each district to meet these standards and enforce compliance. Provides for enforcement of these standards, including injunctive relief.
- SECTION 2. Amends Sections 52.022 and 52.023, Water Code, to delete all references to Chapter 51, Water Code, and provide that the Commission has jurisdiction to consider petitions. Also provides that the boundaries of a proposed district must be coterminous with a previously designated management area.
- SECTION 3. Amends Section 52.024, Water Code, to delete all references to Chapter 51, Water Code, and to provide that the Commission shall designate underground water management areas.
- SECTION 4. Amends Chapter 52, Water Code, by adding Sections 52.0241 through 52.0243 which provide for the procedure for designation of management areas, including requirements for the petition, notice, and hearings.
- SECTION 5. Amends Chapter 52, Water Code, by amending Sections 52.025 and 52.026 and adding Sections 52.027 through 52.034 which provide for petitioning for the creation of a district or adding land to an existing district, including requirements for the petition, notice, and hearings. Provides that the Commission may issue a recommendation for the creation of a district or the inclusion of land in a district, with certain
- 2

requirements. Provides for the appointment of a temporary board of directors. Provides for a confirmation election. Provides that the confirmation election for the creation of a district may include proposals for a bond issue and levy of taxes. Provides that taxes may not exceed 10 cents per one hundred dollars valuation.

- SECTION 6. Amends Sections 52.060, 52.061, 52.151 and 52.168, Water Code, to provide that the Commission may recommend that an area identified as critical may be added to an existing adjacent district, and provides for an election in the area to be added, as well as payment of associated costs. Deletes all language requiring that the residents within the existing district must also vote to approve adding the new area. Provides that district may adopt reasonable rules with certain restrictions. Also provides that persons operating a well must obtain a permit to do so.
- SECTION 7. Provides for appeal of rules adopted by a district.
- SECTION 8. Amends Section 52.170, Water Code, to provide that the chapter does not apply to permits issued by the Railroad Commission or the Texas Water Commission.
- SECTION 9. Amends Chapter 52, Water Code, by adding Sections 52.1651, 52.174 and 52.262 which provide that the district may adopt certain well standards. Also provides districts with contracting authority, and that districts may assess and collect a fee for permits issued or renewed. Also allows funds to be used to pay the costs of the district.
- SECTION 10. Amends Section 52.292, Water Code, to provide that districts may pay bonds and notes using well permit and use fees.
- SECTION 11. Amends Section 52.351, Water Code, to provide that districts may levy taxes not to exceed ten cents per one hundred dollars valuation.
- SECTION 12. Repeals Section 52.063, Water Code.
- SECTION 13. Effective date is September 1, 1987.
- SECTION 14. Emergency clause.

#### Rulemaking Authority

This bill would give additional rulemaking authority to the Texas Water Commission, specifically in Sections 1 and 5.

#### Summary of Committee Action

Public notice was posted in accordance to the rules and a public hearing was held on Wednesday, April 1, 1987. The bill was referred to subcommittee consisting of the following members: Representative Terral Smith, Chair, Representative Shelley and Representative Yost. On April 23, 1987, the subcommittee met in a formal meeting and voted to report the measure as substituted.

On Wednesday, April 27, 1987, the full committee voted to report HB 1451 to the House as substituted with a recommendation that it do pass by a record vote of 7 ayes, 1 nay and zero present, not voting.

The following persons testified in favor of HB 1451:

Catherine Perrine  
League of Women Voters

G.K. Sprinkle, Consultant  
National Audubon Society

Dan McNamara, Legislative Consultant  
Sierra Club

Steve Stagner  
Texas Water Alliance

A. Wayne Wyatt, Manager  
High Plains Underground Water Conservation District

Becca Williams  
High Plains Underground Water Conservation District

Curtis Carter, Civil Engineer  
Association of Electric Utilities of Texas

The following persons testified against HB 1451:

Rick Illgner, Manager  
Hickock Underground Water Conservation District No.1

Stella Rothe, rancher

Mark Hoelscher, Manager  
Glasscock County Underground Water Conservation District

The following person testified on HB 1451:

Joe Maley, Director of State Affairs  
Texas Farm Bureau

#### Comparison of the Original Bill To the Substitute

The substitute bill deletes all language regarding the assumption of jurisdiction by the Commission when the voters in a critical area fail to approve the creation of a district. The substitute also repeals Section 52.063, Water Code, which deals with state owned land within a critical area. The substitute provides for a maximum property tax of ten cents per one hundred dollars valuation.

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

April 1, 1987

TO: Honorable Terral Smith, Chair  
Committee on Natural Resources  
House of Representatives  
Austin, Texas

In Re: House Bill No. 1451  
By: T. Smith

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 1451 (relating to minimum standards for underground water regulation by and the creation, operation, and financing of underground water districts) this office has determined the following:

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The bill authorizes the Water Commission to adopt minimum standards for operations of underground water conservation districts. If districts fail to implement these standards, the Water Commission may assume jurisdiction over the regulation of groundwater in the district.

The Commission would have jurisdiction to consider petitions for the creation of districts. Land in a management area or critical area that is adjacent to a district may be added to the district by affirmative vote of the district board and voters in the area to be added.

The district may collect a permit fee determined by the annual amount of water authorized to be withdrawn by a permittee or the annual amount of water actually withdrawn by a permittee. The funds received from the permit fee collected may be used to pay for the cost to the district in issuing permits and performing other authorized functions. The funds may also be used to pay the operating and maintenance expenses of the district.

The probable fiscal implication of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

<u>Fiscal Year</u>	<u>Probable Cost Out of the General Revenue Fund</u>	<u>Probable Costs to Local Units of Government</u>	<u>Probable Revenue Gain to Units of Local Government</u>	<u>Change in Number of State Employees from FY1987</u>
1988	\$122,472	\$ -0-	\$ -0-	+ 3
1989	122,217	210,000	210,000	+ 3
1990	46,639	210,000	210,000	+ 1
1991	46,639	210,000	210,000	+ 1
1992	46,639	210,000	210,000	+ 1

Similar annual fiscal implications would continue as long as the provisions of the bill are in effect.

Source: Water Commission; Water Development Board;  
LBB Staff: JO, HES, JWH, JG, LV



# HOUSE COMMITTEE REPORT

1st Printing

By Smith of Travis

H.B. No. 1451

Substitute the following for H.B. No. 1451:

By Smith of Travis

C.S.H.B. No. 1451

A BILL TO BE ENTITLED

AN ACT

relating to minimum standards for underground water regulation by and the creation, operation, and financing of underground water districts.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 50, Water Code, is amended by adding Section 50.060 to read as follows:

Sec. 50.060. MINIMUM STANDARDS FOR UNDERGROUND WATER MANAGEMENT. (a) In this section:

(1) "District" means a district that is authorized to regulate the spacing of or production from water wells or to conserve or prevent waste of underground water and includes districts created under Chapter 52 of this code.

(2) "Waste" has the meaning assigned by Section 52.001(7) of this code.

(b) If the commission finds that a district has failed to make and enforce appropriate rules for the regulation of spacing of or production from water wells, conservation of underground water, and prevention of waste of underground water or that there is a need for coordination between districts within a management area, the commission may, after holding a hearing in the district or management area:

(1) develop and adopt for the area reasonable minimum standards for regulation of spacing of or production from water

1 wells, conservation of underground water, and prevention of waste  
2 of underground water;

3 (2) issue an order directing the district to adopt  
4 rules in conformance with the minimum standards for the area;

5 (3) issue an order as provided by Subsection (c) of  
6 this section; or

7 (4) issue any other order authorized by law.

8 (c) If the district fails to make and enforce rules under an  
9 order issued under Subsection (b) of this section, the commission  
10 by order may assume jurisdiction over the regulation of underground  
11 water in the district for a period of time that the commission  
12 considers necessary. Also, the commission may adopt new rules for  
13 the district that the district would be authorized to adopt by law.  
14 The commission shall adopt and enforce rules under this subsection  
15 pursuant to the Administrative Procedure and Texas Register Act  
16 (Article 6252-13a, Vernon's Texas Civil Statutes).

17 (d) On approval of the commission, the executive director  
18 may enforce any commission rule, order or standard issued under  
19 this section. The executive director may seek enforcement of this  
20 section by requesting the attorney general to seek injunctive  
21 relief or other appropriate remedy in a court of competent  
22 jurisdiction. On request of the executive director, the attorney  
23 general shall institute suit to obtain injunctive relief or any  
24 other appropriate remedy.

25 SECTION 2. Sections 52.022 and 52.023, Water Code, are  
26 amended to read as follows:

27 Sec. 52.022. CREATION OF DISTRICTS [METHOD--OF--CREATING

DISTRICT]. The commission has jurisdiction to consider petitions for the creation of districts under this chapter [~~Except as otherwise provided by this subchapter, the provisions in Chapter 51 of this code for creating water control and improvement districts apply to the creation of underground water conservation districts under this subchapter to the extent that these provisions may be made applicable~~].

Sec. 52.023. BOUNDARIES OF DISTRICT. (a) A district may include all or part of one or more counties, cities, districts, or other political subdivisions.

(b) The boundaries of a proposed district must be coterminous with or inside the boundaries of a management area designated by the commission under this subchapter.

SECTION 3. Subsections (a) and (d), Section 52.024, Water Code, are amended to read as follows:

(a) On its own motion from time to time, or on receiving a petition, the commission [~~after notice and hearing as provided by Sections 51.018 and 51.027-51.029 of this code~~] shall designate underground water management areas. Each management area shall be designated with the objective of providing the most suitable area for the management of the underground water resources of the part of the state in which a new district or expanded existing [the] district is to be located. To the extent feasible, the management area shall coincide with the boundaries of an underground water reservoir or a subdivision of an underground water reservoir. However, the commission also may consider other factors, including the boundaries of political subdivisions. The size and

1 configuration of a management area shall be appropriate for the  
2 performance of the duties provided by Subchapter E of this chapter.

3 (d) When the commission has designated the boundaries of a  
4 management area as provided by this subchapter [~~section~~], its  
5 findings on the location of the boundaries and all other questions  
6 essential to the existence of a management area are conclusive and  
7 final unless a suit is brought under Section 52.401 of this code  
8 within the 30-day period immediately following the date on which  
9 the commission enters its order.

10 SECTION 4. Chapter 52, Water Code, is amended by adding  
11 Sections 52.0241 through 52.0243 to read as follows:

12 Sec. 52.0241. PROCEDURE FOR DESIGNATION OF MANAGEMENT AREAS.

13 (a) The rulemaking provisions of the Administrative Procedure and  
14 Texas Register Act (Article 6252-13a, Vernon's Texas Civil  
15 Statutes) apply to the designation by the commission of a  
16 management area or areas.

17 (b) Before adoption of a rule designating a management area,  
18 a public meeting must be held by the commission to allow interested  
19 persons to submit data, views, or arguments and to question any  
20 witnesses relating to evidence prepared for the commission relating  
21 to the configuration of a management area or areas.

22 Sec. 52.0242. PETITION FOR DESIGNATION OF MANAGEMENT AREA.

23 (a) A petition may be submitted to the commission for the sole  
24 purpose of requesting that the commission designate a management  
25 area or areas for all or part of one or more counties.

26 (b) A petition submitted under Subsection (a) of this  
27 section must be signed by 50 or more persons in each county for all

1 or part of which designation of a management area or areas is  
2 requested.

3 (c) The petition must include a statement as follows:

4 "Petitioners request that the Texas Water Commission  
5 designate one or more underground water management areas to include  
6 all or part of \_\_\_\_\_ County (counties). Each management area  
7 shall be designated with the objective of providing the most  
8 suitable area for the management of underground water resources of  
9 the part of the state in which a new district or expanded existing  
10 district is to be located. Petitioners understand that this  
11 petition requests only the designation of a management area or  
12 areas, but that all or part of the land in any management area  
13 designated may later be added to an existing underground water  
14 conservation district or become a new underground water  
15 conservation district as provided by Subchapter B, Chapter 52,  
16 Water Code."

17 (d) A petition shall include a map showing the location of  
18 the proposed management area and may include any other information  
19 desired by the petitioners concerning the proposed management area.

20 (e) The petitioners shall file the petition with the  
21 executive director for review in accordance with the rules of the  
22 commission.

23 (f) The petitioners shall supply any additional information  
24 requested by the commission or the executive director.

25 Sec. 52.0243. NOTICE FOR DESIGNATION OF MANAGEMENT AREA.

26 (a) In addition to the notice provided by Section 5,  
27 Administrative Procedure and Texas Register Act (Article 6252-13a,

1 Vernon's Texas Civil Statutes), the petitioners shall have the  
2 notice issued by the chief clerk published in one or more  
3 newspapers with general circulation in each county in which the  
4 proposed management area or district may be located not later than  
5 the 20th day before the date set for the hearing.

6 (b) The notice must include a map generally outlining the  
7 boundaries of the proposed management area, district, or additional  
8 area and the caption of the petition. The notice also shall state  
9 the time and place of the hearing.

10 SECTION 5. Chapter 52, Water Code, is amended by amending  
11 Sections 52.025 and 52.026 and adding Sections 52.027 through  
12 52.034 to read as follows:

13 Sec. 52.025. PETITION FOR CREATION OF DISTRICT OR ADDING  
14 LAND TO AN EXISTING DISTRICT. (a) A petition requesting creation  
15 of a district, or the addition of land to an existing district,  
16 must be filed with the executive director for review and submission  
17 to the commission.

18 (b) The petition must be signed by:

19 (1) a majority of the persons who hold title to land  
20 in the proposed district or additional area or, if there are more  
21 than 50 persons holding title to land in the proposed district or  
22 additional area, by 50 of them; or

23 (2) persons who hold title to land in the proposed  
24 district or additional area that represents a total value of more  
25 than 50 percent of the value of all the land in the proposed  
26 district or additional area as indicated by the county tax rolls.

27 (c) No fewer than two copies of the petition must be filed.

1        (d) The petition must include:

2                (1) the name of the proposed district;

3                (2) the area and boundaries of the proposed district  
4 or additional area, including a map generally outlining the  
5 boundaries of the proposed district or additional area;

6                (3) if the petition is for the creation of a district,  
7 the following statement:

8                "The \_\_\_\_\_ (name of district) is proposed to be created  
9 pursuant to Chapter 52, Water Code, and is to provide for the  
10 conservation, preservation, protection, recharging, and prevention  
11 of waste of the underground water within the district. The  
12 district will have the authority to make and enforce rules for  
13 these purposes including rules regulating the spacing and  
14 production of water wells and the prevention of pollution of  
15 underground water.";

16                (4) if no area within the proposed district is within  
17 a management area designated by the commission, a request that the  
18 commission designate a management area; and

19                (5) if the petition is for the addition of land not  
20 within a management area to an existing district, a statement  
21 generally describing the powers and purposes of the district, the  
22 date and manner in which the district was created, and a request  
23 that the commission designate a management area.

24                (e) The petition may include any other information desired  
25 by the petitioners concerning the need for the proposed district.

26                (f) The petitioners shall file the petition with the  
27 executive director for review in accordance with the rules of the

1 commission. The petition shall be accompanied by a bond payable to  
2 the commission, or by a deposit, in an amount determined by the  
3 commission to be sufficient to pay the costs of an election for the  
4 creation of the proposed district or for the addition of the  
5 proposed area to an existing district.

6 (g) A petition for the creation of a district is deemed to  
7 constitute a petition to designate a management area if no area  
8 within the proposed district is within a management area previously  
9 designated by the commission.

10 (h) A petition for the addition of land not within a  
11 management area to an existing district is deemed to constitute a  
12 petition to designate a management area.

13 (i) The petitioners shall supply any additional information  
14 requested by the commission or the executive director.

15 (j) If a management area designated by the commission in  
16 response to a petition for creation of a district differs  
17 substantially from the area described by the petition, a new  
18 petition and hearing are required for creation of a district. In  
19 its ruling designating the management area, the commission shall  
20 include a ruling as to whether the management area differs  
21 substantially from the area described by the petition.

22 Sec. 52.026. NOTICE FOR HEARING ON DISTRICT CREATION OR  
23 ADDITION OF LAND TO A DISTRICT. (a) The petitioners shall have  
24 the notice issued by the chief clerk concerning the hearing on the  
25 petition submitted under Section 52.025 of this code published not  
26 later than the 30th day before the date set for the hearing in a  
27 newspaper or newspapers with general circulation in each county in



1 which the district sought to be created or the additional area may  
2 be located.

3 (b) The petitioners shall have the notice posted on the  
4 bulletin board used for posting legal notices in each county in  
5 which the district sought by the petitioners or the additional area  
6 may be located.

7 (c) The notice must include a map generally outlining the  
8 boundaries of the proposed district or additional area and the  
9 caption of the petition. Also, the notice must state the time and  
10 place of the hearing.

11 Sec. 52.027. HEARING BY COMMISSION. At the hearing, the  
12 commission shall hear testimony and receive evidence relating to  
13 whether the proposed district should be created or whether the  
14 proposed additional land should be added to the existing district.

15 Sec. 52.028. COMMISSION ORDER. (a) At the conclusion of  
16 the hearing, the commission shall issue an order stating its  
17 findings and conclusions.

18 (b) If the commission finds that creation of a district  
19 would be feasible and practicable and a benefit to the land and  
20 other property within the area, would meet a public need, and would  
21 further the public welfare, the commission shall issue an order  
22 proposing the creation of a district, delineating the boundaries of  
23 the proposed district, directing that an election be held within  
24 the boundaries of the proposed district to determine if the  
25 district will be created, and appointing temporary directors for  
26 the proposed district.

27 (c) If the commission finds that the proposed addition of

1 land to an existing district would be feasible and practicable and  
2 a benefit to the land and other property in the district and in the  
3 proposed additional area, would meet a public need, and would  
4 further the public welfare, the commission shall issue an order  
5 recommending that the proposed land be added to the existing  
6 district. The order shall specify that, if the board of the  
7 district votes to accept the additional area, it shall call an  
8 election within the proposed additional area to determine if the  
9 area will be added to the district and shall designate election  
10 precincts and polling places for the elections.

11 (d) If the commission does not find that creation of a  
12 district or the proposed addition of land to an existing district  
13 would be feasible and practicable and a benefit to land and other  
14 property, would meet a public need, or would further the public  
15 welfare, the commission shall issue an order denying the petition.

16 (e) An order of the commission issued under this section may  
17 not be appealed.

18 Sec. 52.029. TEMPORARY DIRECTORS. (a) If the commission  
19 orders an election to be held to determine whether a district  
20 should be created, it shall appoint five temporary directors who  
21 shall serve until the initial directors are elected and have  
22 qualified for office or until the voters fail to approve creation  
23 of the district.

24 (b) Not later than the 15th day after the date a person is  
25 appointed to be a temporary director, the person shall take the  
26 oath of office.

27 (c) If an appointee of the commission fails to qualify or if

1 a vacancy occurs in the office of temporary director, the  
2 commission shall appoint an individual to fill the vacancy.

3 (d) As soon as all temporary directors have qualified, the  
4 directors shall meet and elect a chairman and vice-chairman from  
5 their membership. The chairman shall preside at all meetings of  
6 the board, and in his absence, the vice-chairman shall preside.

7 Sec. 52.030. ELECTION FOR CREATION OF A DISTRICT. An  
8 election to determine if a district will be created shall be held  
9 in accordance with Section 52.058 of this code.

10 Sec. 52.031. BOND AND TAX PROPOSITION. (a) At an election  
11 to create a district, the temporary directors may include a  
12 proposition for the levy of a maintenance tax at a rate not to  
13 exceed ten cents of each \$100 of assessed valuation.

14 (b) The temporary directors also may include a proposition  
15 for the issuance of bonds or notes secured in whole or in part by  
16 taxes as provided in Section 52.294 of this chapter.

17 Sec. 52.032. ELECTION FOR ADDING LAND TO AN EXISTING  
18 DISTRICT. (a) If the board of an existing district votes to  
19 accept an additional area, it shall give notice of the election to  
20 be held within the proposed additional area and the proposition to  
21 be voted on by publishing notice of the election at least one time  
22 in one or more newspapers with general circulation within the  
23 boundaries of the additional area not later than the 30th day  
24 before the date of the election.

25 (b) The ballots for the election shall be printed to provide  
26 for voting for or against the proposition: "The inclusion of  
27 (briefly describe additional area) in the \_\_\_\_\_ District." If

1 the district levies a property tax for payment of its maintenance  
 2 and operating expenses, the proposition shall include the following  
 3 language: "and the levy of a tax on property at a rate not to  
 4 exceed \_\_\_\_\_ cents on each \$100 of assessed valuation for  
 5 payment of maintenance and operating expenses of the district."  
 6 The amount of the tax included in the proposition shall be the  
 7 maximum amount that the district is authorized to levy. If the  
 8 district has outstanding or authorized bond indebtedness, the  
 9 proposition shall include language providing for the assumption by  
 10 the additional area of a proportional share of the bonded  
 11 indebtedness of the district.

12 (c) If a majority of the voters in the proposed additional  
 13 area voting on the proposition vote in favor of the proposition,  
 14 the board shall declare that the area is added to the district. If  
 15 a majority of the voters in the additional area voting on the  
 16 proposition vote against the proposition, the board shall declare  
 17 that the area is not added to the district. The board shall file a  
 18 copy of the election results and board action with the commission.

19 (d) If the area is added to the existing district, the board  
 20 of the district shall provide for the reasonable representation of  
 21 the area on the board that is compatible with the district's  
 22 existing scheme of representation.

23 (e) If the vote on the proposition fails, an election to add  
 24 the area to the same district or another district may not be called  
 25 before the end of the 12th month after the month in which the  
 26 election on the proposition was held.

27 Sec. 52.033. COSTS OF ELECTIONS. (a) The costs of an

1 election for the creation of a district may be paid by the county  
 2 or counties to be included in the proposed district. If the county  
 3 or counties decline to pay, the costs of an election for the  
 4 creation of a district shall be paid by the temporary directors.  
 5 At the time that the temporary directors call the election, the  
 6 chief clerk of the commission shall deliver to them the bond or  
 7 deposit submitted with the petition for creation of the district.  
 8 If the proceeds of the bond or deposit exceed the actual cost of  
 9 the election, the directors shall return the excess to the  
 10 petitioners.

11 (b) The costs of an election that adds land to an existing  
 12 district shall be paid by the district as expanded by the election,  
 13 and the chief clerk of the commission shall return to the  
 14 petitioners the bond or deposit submitted with the petition. If  
 15 the voters do not approve the proposition to add land to the  
 16 existing district, the chief clerk of the commission shall deliver  
 17 the bond or deposit to the board. If the proceeds of the bond or  
 18 the deposit exceed the actual cost of the election, the board shall  
 19 return the excess to the petitioners.

20 Sec. 52.034. [FINDINGS--(a)--If the commission finds that a  
 21 district is feasible and practicable, that it would be a benefit to  
 22 land in the district, and that it would be a public benefit or  
 23 utility, the commission shall make these findings and grant the  
 24 petition.

25 [(b)--If the commission finds that the district is not  
 26 feasible and practicable, that it would not be a benefit to land in  
 27 the district, that it would not be a public benefit or utility, or

1 ~~that-it-is-not-needed,-the-commission-shall--refuse--to--grant--the~~  
2 ~~petition.~~

3 [See-52.026.] APPLICATION OF SUBCHAPTER. The provisions of  
4 this subchapter apply only to districts created under this  
5 subchapter.

6 SECTION 6. Sections 52.059, 52.060, 52.061, 52.0611, 52.151,  
7 and 52.168, Water Code, are amended to read as follows:

8 Sec. 52.059. BOND AND TAX PROPOSITIONS. (a) At an election  
9 to create a district, the temporary directors may provide for  
10 voting for or against a proposition as follows: "The levy of a tax  
11 on property in the district at a rate not to exceed \_\_\_\_ cents on  
12 each \$100 of assessed valuation for payment of maintenance and  
13 operating expenses of the district." The amount of the proposed  
14 tax may not exceed ten cents.

15 (b) The temporary directors also may include a proposition  
16 for the issuance of bonds or notes secured in whole or in part by  
17 taxes in accordance with Section 52.294 of this code. [The--board  
18 shall-include-in-any-bond-and-tax-proposition-the-maximum-amount-of  
19 bonds-to-be-issued-and-their-maximum-maturity-date.]

20 Sec. 52.060. ADDING CRITICAL AREA TO EXISTING DISTRICT. (a)  
21 If land in a critical area is located outside and adjacent to one  
22 or more existing districts, the commission, instead of issuing an  
23 order under Section 52.056(b) of this code, may issue an order  
24 recommending that the land be added to one or more of the existing  
25 adjacent districts and ordering the board of the existing district  
26 if it votes to accept the additional area to call and hold an  
27 election within the area proposed to be added to the district to

1 determine whether the area will be added to the district.

2 (b) In its order the commission must find that:

3 (1) the land and other property in the critical area  
4 and the land in the existing district will benefit from the  
5 addition of the area to the district;

6 (2) there is a public need to add the land to the  
7 existing district; and

8 (3) addition of the land to the existing district  
9 would further the public welfare.

10 (c) In its order the commission may recommend that an area  
11 including less land than the designated critical area be added to  
12 one or more existing districts.

13 (d) The commission shall submit a copy of its order to the  
14 board of the district to which it is recommended that the critical  
15 area be added.

16 (e) In an order accepting the additional land in the  
17 critical area, the board shall call an election within the proposed  
18 additional area as delineated by the commission to determine if the  
19 area will be added to the district. The order shall specify the  
20 land to be added to the district according to the commission order  
21 and shall designate election precincts and polling places for the  
22 election.

23 (f) The board shall give notice of the election and the  
24 propositions to be voted on by publishing notice of the election at  
25 least one time in one or more newspapers with general circulation  
26 within the boundary of the proposed additional area not later than  
27 the 30th day before the date of the election.

1        (g) The ballots for the election shall be printed to provide  
2 for voting for or against the proposition: "The inclusion of  
3 (briefly describe additional area) in the \_\_\_\_\_ District." If  
4 the district levies a property tax for payment of its maintenance  
5 and operating expenses, the proposition shall include the following  
6 language: "and the levy of a tax on property at a rate not to  
7 exceed \_\_\_\_ cents on each \$100 of assessed valuation for payment of  
8 maintenance and operating expenses of the district." The amount of  
9 the tax included in the proposition shall be the maximum amount  
10 that the district is authorized to levy. If the district has  
11 outstanding or authorized bonded indebtedness, the proposition  
12 shall include language providing for the assumption by the  
13 additional area of a proportional share of the bonded indebtedness  
14 of the district.

15        (h) If a majority of the voters in the additional area  
16 voting on the proposition vote in favor of the proposition, the  
17 board shall declare that the area is added to the district. If a  
18 majority of the voters in the additional area voting on the  
19 proposition vote against the proposition, the board shall declare  
20 that the area is not added to the district. The board shall file a  
21 copy of the election results and board action with the commission.

22        (i) If the area is added to the existing district, the board  
23 of the district shall provide for the reasonable representation of  
24 the area on the board that is compatible with the district's  
25 existing scheme of representation.

26        (j) If the vote on the proposition to add the area to the  
27 existing district fails, an election to add the area to the same



1 district or another district may not be called earlier than the end  
 2 of the 12th month after the month in which the election on the  
 3 proposition was held. [ (a) -- If land in a critical area is located  
 4 adjacent to one or more existing districts, the commission, instead  
 5 of issuing an order under Section 52-056 (b) of this code, may issue  
 6 an order recommending that the critical area be added to the  
 7 existing district designated by the commission, delineating the  
 8 boundaries of the critical area proposed to be added to the  
 9 existing district, and ordering the board of the existing district  
 10 to call and hold on the same day separate elections within the  
 11 existing district and within the critical area to determine whether  
 12 the critical area will be added to the district. In its order, the  
 13 commission must find that the land and other property in the  
 14 critical area and the land in the existing district will benefit  
 15 from the addition of the area, that there is a public need to add  
 16 the critical area to the existing district, and that addition of  
 17 the land to the existing district would further the public welfare.

18 [ (b) -- If the department recommends that the critical area be  
 19 added to an existing district in its report under Section 52-053 of  
 20 this code or if the commission, on receiving that report, considers  
 21 it possible to add the critical area to an adjacent existing  
 22 district, the commission shall give notice as provided by Section  
 23 52-054 (b) of this code to the board of the existing district  
 24 recommended by the department or considered by the commission to  
 25 possibly serve the area and to any other existing districts  
 26 adjacent to the critical area.

27 [ (c) -- The commission shall submit a copy of the order issued

under this section to the board of the district to which it is recommended that the critical area be added.

[ (d) -- Within --- 10 --- days --- after --- receiving --- a --- copy --- of --- the commission's order, the board shall call on the same day separate elections within the existing district and within the critical area as delineated by the commission to determine if the critical area will be added to the district. -- In the order calling the election, the board shall designate election precincts and polling places for the elections.

[ (e) -- The board shall give notice of the elections and the proposition to be voted on. -- The board shall publish notice of the elections at least one time in one or more newspapers with general circulation within the boundaries of the existing district and the critical area. --- The notice must be published before the 30th day preceding the date set for the elections.

[ (f) -- The ballots for the elections shall be printed to provide for voting for or against the proposition. -- "The inclusion of ----- (briefly --- describe --- critical --- area) ----- in the ----- District and assumption by the described area of a proportional share of the outstanding indebtedness of the district. "

[ (g) -- Immediately after the elections, the presiding judge of each polling place shall deliver the returns of the election to the board, and the board shall canvass the returns for the election within the existing district and the election within the critical area separately and declare the results. -- If a majority of the voters in the existing district and a majority of the voters in the

critical-area-voting-on--the--proposition--vote--in--favor--of--the  
proposition,--the--board--shall--declare--that-the-critical-area-is  
added-to-the-district. --If-a-majority-of-the-voters--in--either--or  
both--the--existing--district--and--the-critical-area-voting-on-the  
proposition-vote-against-adding-the-critical-area-to-the--district,  
the--board-shall-declare-that-the-critical-area-is-not-added-to-the  
district. --The-board-shall-file-a-copy-of-the-election-results-with  
the-department.

[ (h) --If-the-voters-approve-adding-the-critical-area--to--the  
district,--the--board-of-the-district-to-which-the-critical-area-is  
added-shall-provide-for-the-critical-area-reasonable-representation  
on-the-board-that-is-compatible-with-the-district's-existing-scheme  
of-representation.

[ (i) --If-the-proposition-is-defeated,--no--further--elections  
may-be-called-by-the-board-to-add-the-critical-area-to-the-district  
unless--the--procedures-provided-by-this-subchapter-for-designating  
and-delineating-critical-areas-and-ordering--that--an--election--be  
held-are-followed-in-their-entirety. ]

Sec. 52.061. COSTS OF ELECTIONS. (a) The costs of an  
election held as provided by this subchapter [to-create-a--district  
at--which--a-district-is-authorized-to-be-created] shall be paid by  
the commission [district].

(b) If the election results in the creation of a new or  
expanded district, the district shall reimburse the commission for  
the costs of the election. [The-costs-of--an--election--to--add--a  
critical--area--to-an-existing-district-at-which-the-voters-approve  
adding-the-critical-area-to-the--district--shall--be--paid--by--the

existing-district.

[~~(e) -- If -- at -- an -- election -- to -- create -- a -- district -- or -- add -- a critical-area -- to -- an -- existing -- district -- the -- voters -- do -- not -- approve -- the proposition -- and -- the -- district -- is -- not -- created -- or -- the -- critical -- area -- is not -- added -- to -- the -- existing -- district, -- the -- commission -- shall -- pay -- the costs -- of -- the -- election. ]~~

Sec. 52.151. RULE-MAKING POWER. (a) A district may make and enforce reasonable rules to provide for conserving, preserving, protecting, recharging, controlling subsidence, and preventing waste of the underground water of an underground water reservoir or its subdivisions and to carry out the powers and duties provided by this chapter.

(b) A district may not adopt rules regulating the zoning or subdivision of land.

Sec. 52.168. DRILLING, ETC., WITHOUT PERMIT. Except as provided by Section 52.170 of this code, no person, firm or corporation may begin to drill a well in the district, [~~or~~] substantially alter the size of a well or pump, or continue to operate a well that [~~which-well~~] could produce 25,000 gallons or more of underground water a day from a reservoir or subdivision, without first obtaining a permit from the district or having a valid current permit from the district.

SECTION 7. Subsection (b), Section 52.154, Water Code, is amended to read as follows:

(b) A person may appeal the reasonableness and validity of a rule, regulation, or order adopted by a district as provided by Subchapter I of this chapter after an appeal to the commission

1 under rules adopted by the commission. If the commission  
2 determines that a rule, order, or regulation is unreasonable,  
3 interferes with activities permitted by the commission, or is  
4 otherwise invalid, it shall declare that the rule, order, or  
5 regulation is null and void.

6 SECTION 8. Subsection (e), Section 52.170, Water Code, is  
7 amended to read as follows:

8 (e) Nothing in this chapter applies to wells drilled for  
9 oil, gas, sulphur, uranium, or brine, or for core tests, or for  
10 injection of gas, salt water, or other fluid, or for any other  
11 purpose, under permits issued by the commission or the Railroad  
12 Commission of Texas. The district may not require a permit to  
13 drill a well to supply water for drilling any of these wells  
14 permitted by the commission or the Railroad Commission of Texas.  
15 When the well ceases to be used for these purposes, it may then be  
16 used as an ordinary water well if it meets the spacing and other  
17 rules of the district; and its use is subject to the rules of the  
18 district.

19 SECTION 9. Chapter 52, Water Code, is amended by adding  
20 Sections 52.1651 and 52.174 to read as follows:

21 Sec. 52.1651. WELL COMPLETION STANDARDS. The district may  
22 adopt standards requiring installation of casing, pipe, and  
23 fittings for water wells to prevent the escape of underground water  
24 from an underground water reservoir to any reservoir not containing  
25 underground water and to prevent the pollution or harmful  
26 alteration of the character of the water in any underground water  
27 reservoir.

1        Sec. 52.174. AUTHORITY TO ENTER INTO CONTRACTS. The  
2        district may contract with any person or political subdivision as  
3        necessary or appropriate to effectively exercise the authority  
4        provided by this chapter or to provide additional revenue to pay  
5        for the activities of the district. The consideration received by  
6        the district through a contract may be used to pay the operating  
7        and maintenance expenses of the district and to pay the principal  
8        of and interest on its bonds and notes.

9        SECTION 10. Subsection (b), Section 52.351, Water Code, is  
10       amended to read as follows:

11       (b) The board may annually levy taxes to pay the maintenance  
12       and operating expenses of the district at a rate not to exceed 10  
13       [50] cents on each \$100 of assessed valuation.

14       SECTION 11. This Act takes effect September 1, 1987.

15       SECTION 12. The importance of this legislation and the  
16       crowded condition of the calendars in both houses create an  
17       emergency and an imperative public necessity that the  
18       constitutional rule requiring bills to be read on three several  
19       days in each house be suspended, and this rule is hereby suspended.

# COMMITTEE REPORT

The Honorable Gib Lewis  
Speaker of the House of Representatives

5-20-87  
(date)

Sir:

We, your COMMITTEE ON NATURAL RESOURCES,

to whom was referred HB 1451 have had the same under consideration and beg to report  
(measure)  
back with the recommendation that it

( ) do pass, without amendment.

( ) do pass, with amendment(s).

(X) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. (X) yes ( ) no

An actuarial analysis was requested. ( ) yes (X) no

An author's fiscal statement was requested. ( ) yes (X) no

The Committee recommends that this measure be placed on the ~~(Local)~~ or (Consent) Calendar.

This measure , proposes new law. (X) amends existing law.

House Sponsor of Senate Measure \_\_\_\_\_

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Smith, T., Ch.	X			
Harris, J., V.C.	X			
Johnson, C., C.B.O.	X			
Hammond				X
Holzheuser	X			
Russell	X			
Shelley				X
Toomey				X
Yost	X			

Total


6 aye

0 nay

0 present, not voting

3 absent

  
CHAIRMAN

  
COMMITTEE COORDINATOR

## BILL ANALYSIS

### Background

Under current law, the requirements for creation of underground water districts are divided between Chapters 51 and 52 of the Water Code, and this division has caused some confusion. There are no provisions for minimum standards that a groundwater district must meet or for Commission action if an underground water district fails to properly regulate underground water. Although a permit is required to construct a well, there are no permits or fees relating to operating a well.

### Purpose of the Bill

This bill would consolidate all the requirements for creation of an underground water district in Chapter 52, Water Code, and allow the Texas Water Commission to set minimum standards for the operation of districts with the enforcement provisions.

### Section by Section Analysis

- SECTION 1. Amends Chapter 50, Water Code, by adding Section 50.060. Defines terms. Provides that the Texas Water Commission may adopt rules and minimum standards for groundwater conservation after making certain findings regarding a district. Requires the district to meet these standards and enforce compliance. Provides for enforcement of these standards, including injunctive relief.
- SECTION 2. Amends Sections 52.022 and 52.023, Water Code, to delete all references to Chapter 51, Water Code, and provide that the Commission has jurisdiction to consider petitions. Also provides that the boundaries of a proposed district must be coterminous with a previously designated management area.
- SECTION 3. Amends Section 52.024, Water Code, to delete all references to Chapter 51, Water Code, and to provide that the Commission shall designate underground water management areas.
- SECTION 4. Amends Chapter 52, Water Code, by adding Sections 52.0241 through 52.0243 which provide for the procedure for designation of management areas, including requirements for the petition, notice, and hearings.
- SECTION 5. Amends Chapter 52, Water Code, by amending Sections 52.025 and 52.026 and adding Sections 52.027 through 52.034 which provide for petitioning for the creation of a district or adding land to an existing district, including requirements for the petition, notice, and hearings. Provides that the Commission may issue a recommendation for the creation of a district or the inclusion of land in a district, with certain requirements. Requires a bond be filed with the



petition equal to the cost of the election. Provides for the appointment of a temporary board of directors. Provides for a confirmation election paid for by the counties to be included. Provides that the confirmation election for the creation of a district may include proposals for a bond issue and levy of taxes. Provides that taxes may not exceed 10 cents per one hundred dollars valuation.

SECTION 6. Amends Sections 52.059, 52.060, 52.061, 52.151 and 52.168, Water Code, to provide that the Commission may recommend that an area identified as critical may be added to an existing adjacent district, and provides for an election in the area to be added, as well as payment of associated costs. Deletes all language requiring that the residents within the existing district must also vote to approve adding the new area. Provides that district may adopt reasonable rules except that they may not regulate the zoning or subdivision of land. Also provides that persons operating a well must obtain a permit to do so.

SECTION 7. Provides for appeal of rules adopted by a district.

SECTION 8. Amends Section 52.170, Water Code, to provide that the chapter does not apply to permits issued by the Railroad Commission or the Texas Water Commission.

SECTION 9. Amends Chapter 52, Water Code, by adding Sections 52.1651 and 52.174 which provide that the district may adopt certain well standards. Also provides districts with contracting authority.

SECTION 10. Amends Section 52.351, Water Code, to provide that districts may levy taxes not to exceed ten cents per one hundred dollars valuation.

SECTION 11. Effective date is September 1, 1987.

SECTION 12. Emergency clause.

#### Rulemaking Authority

This bill grants rulemaking authority to the Texas Water Commission under Section 1 to promulgate rules regarding minimum standards for groundwater conservation, under Section 5 to promulgate rules regarding the filing and review of petitions, and under Section 7 to promulgate rules regarding the appeals process.

#### Summary of Committee Action

Public notice was posted in accordance to the rules and a public hearing was held on April 1, 1987. The bill was referred to subcommittee consisting of the following members: Representative Terral Smith, Chair, Representative Shelley and Representative Yost. On April 23, 1987, the subcommittee met in a formal meeting and voted to report the measure as substituted.

On April 27, 1987, the full committee voted to report HB 1451 to the House as substituted with a recommendation that it do pass by a record vote of 7 ayes, 1 nay and zero present, not voting.

On May 20, 1987, a point of order was sustained on the House Floor and the bill was referred back to the Committee. Pursuant to a suspension of the 5 day posting rule, a public hearing was held on May 20, 1987. The chair laid out a new substitute for HB 1451, and the full committee voted to report the bill to the House as substituted with a recommendation that it do pass by a record vote of 6 ayes, zero nays, and zero present, not voting.

The following persons testified in favor of HB 1451 at the public hearing held April 1, 1987:

Catherine Perrine  
League of Women Voters

G.K. Sprinkle, Consultant  
National Audubon Society

Dan McNamara, Legislative Consultant  
Sierra Club

Steve Stagner  
Texas Water Alliance

A. Wayne Wyatt, Manager  
High Plains Underground Water Conservation District

Becca Williams  
High Plains Underground Water Conservation District

Curtis Carter, Civil Engineer  
Association of Electric Utilities of Texas

The following persons testified against the original HB 1451 at the public hearing held April 1, 1987:

Rick Illgner, Manager  
Hickock Underground Water Conservation District No.1

Stella Rothe, rancher

Mark Hoelscher, Manager  
Glasscock County Underground Water Conservation District

The following person testified on HB 1451 at the public hearing held April 1, 1987:

Joe Maley, Director of State Affairs  
Texas Farm Bureau

There was no testimony received at the public hearing held May 20, 1987.

#### Comparison of the Original Bill To the Substitute

The substitute provides for a maximum property tax of ten cents per one hundred dollars valuation, and removed all language creating the authorization to assess and spend permit and users fees. The substitute bill also provides that the Commission shall only adopt minimum standards for a district after determining that the district has failed to make and enforce appropriate rules.

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

May 21, 1987

TO: Honorable Terral Smith, Chair  
Committee on Natural Resources  
House of Representatives  
Austin, Texas

In Re: Committee Substitute for  
House Bill No. 1451

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Committee Substitute for House Bill No. 1451 (relating to minimum standards for underground water regulation by and the creation, operation, and financing of underground water districts) this office has determined the following:

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The bill authorizes the Water Commission to adopt minimum standards for operations of underground water conservation districts. If districts fail to implement these standards, the Water Commission may assume jurisdiction over the regulation of groundwater in the district.

The Commission would have jurisdiction to consider petitions for the creation of districts. Land in a management area or critical area that is adjacent to a district may be added to the district by affirmative vote of the district board and voters in the area to be added.

The underground water conservation districts may annually levy taxes to pay the maintenance and operating expenses of the district at a rate not to exceed 10 cents on each \$100 of assessed valuation. Currently, the average tax rate is approximately four cents per \$100. It is assumed for purposes of this fiscal note that the underground water districts will cover their additional costs by their tax rates.

The probable fiscal implication of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

<u>Fiscal Year</u>	<u>Probable Cost Out of the General Revenue Fund</u>	<u>Probable Costs to Local Units of Government</u>	<u>Probable Revenue Gain to Units of Local Government</u>	<u>Change in Number of State Employees from FY1987</u>
1988	\$115,169	\$ -0-	\$ -0-	+ 2.5
1989	114,999	210,000	210,000	+ 2.5
1990	91,679	210,000	210,000	+ 2.0
1991	91,679	210,000	210,000	+ 2.0
1992	91,679	210,000	210,000	+ 2.0

Similar annual fiscal implications would continue as long as the provisions of the bill are in effect.

Source: Water Commission; Water Development Board;  
LBB Staff: JO, HES, JWH, JG, LV

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

April 1, 1987

TO: Honorable Terral Smith, Chair  
Committee on Natural Resources  
House of Representatives  
Austin, Texas

In Re: House Bill No. 1451  
By: T. Smith

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 1451 (relating to minimum standards for underground water regulation by and the creation, operation, and financing of underground water districts) this office has determined the following:

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The bill authorizes the Water Commission to adopt minimum standards for operations of underground water conservation districts. If districts fail to implement these standards, the Water Commission may assume jurisdiction over the regulation of groundwater in the district.

The Commission would have jurisdiction to consider petitions for the creation of districts. Land in a management area or critical area that is adjacent to a district may be added to the district by affirmative vote of the district board and voters in the area to be added.

The district may collect a permit fee determined by the annual amount of water authorized to be withdrawn by a permittee or the annual amount of water actually withdrawn by a permittee. The funds received from the permit fee collected may be used to pay for the cost to the district in issuing permits and performing other authorized functions. The funds may also be used to pay the operating and maintenance expenses of the district.

The probable fiscal implication of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

<u>Fiscal Year</u>	<u>Probable Cost Out of the General Revenue Fund</u>	<u>Probable Costs to Local Units of Government</u>	<u>Probable Revenue Gain to Units of Local Government</u>	<u>Change in Number of State Employees from FY1987</u>
1988	\$122,472	\$ -0-	\$ -0-	+ 3
1989	122,217	210,000	210,000	+ 3
1990	46,639	210,000	210,000	+ 1
1991	46,639	210,000	210,000	+ 1
1992	46,639	210,000	210,000	+ 1

Similar annual fiscal implications would continue as long as the provisions of the bill are in effect.

Source: Water Commission; Water Development Board;  
LBB Staff: JO, HES, JWH, JG, LV

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H. B. No. 1451

By [Signature]

A BILL TO BE ENTITLED  
AN ACT

relating to minimum standards for underground water regulation  
by and the creation, operation, and financing of underground  
water districts.

MAY 29 1987

MAY 15 1987

LAI D ON TABLE  
SUBJECT TO CALL

Motion to postpone further consideration  
of H.B. No. 1451 until Wed. May 20 at 10 am  
prevailed by non-record vote.

MAR 10 1987

1. Filed with the Chief Clerk.

MAR 18 1987

2. Read first time and Referred to Committee on

Natural Resources

APR 27 1987

3. Reported favorably (as amended) and sent to Printer at 4:24 p

MAY 20 1987

MAY 5 1987

4. Printed and distributed at 6:19 pm

MAY 23 1987

3:16 p.m.

MAY 6 1987

5. Sent to Committee on Calendars at 10:52 am

MAY 25 1987

8:05 am

6. Read second time (amended); passed to third reading (failed) by (Non-Record Vote)  
(Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting).

7. Motion to reconsider and table the vote by which H.B. \_\_\_\_\_ was ordered  
engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of \_\_\_\_\_ yeas,  
\_\_\_\_\_ nays, and \_\_\_\_\_ present, not voting).

8. Constitutional Rule requiring bills to be read on three several days suspended (failed  
to suspend) by a four-fifths vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, and \_\_\_\_\_  
present, not voting.

MAY 20 1987

\* POINT OF ORDER SUSTAINED

9. Read third time (amended); finally passed (failed) by (Non-Record Vote) (Record Vote  
of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting).

10. Caption ordered amended to conform to body of bill.

11. Motion to reconsider and table the vote by which H. B. \_\_\_\_\_ was finally passed  
prevailed (failed) by a (Non-Record Vote) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_  
nays, and \_\_\_\_\_ present, not voting).

12. Ordered Engrossed at \_\_\_\_\_

13. Engrossed.

14. Returned to Chief Clerk at \_\_\_\_\_

15. Sent to Senate.

Chief Clerk of the House

16. Received from the House

17. Read, referred to Committee on \_\_\_\_\_

18. Reported favorably

19. Reported adversely, with favorable Committee Substitute; Committee Substitute read  
first time.

20. Ordered not printed.

21. Regular order of business suspended by  
(a viva voce vote.)  
(\_\_\_\_\_ yeas, \_\_\_\_\_ nays.)

\_\_\_\_\_ 22. To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays.

\_\_\_\_\_ 23. Read second time \_\_\_\_\_ passed to third reading by:  
(a viva voce vote.)  
( \_\_\_\_\_ yeas, \_\_\_\_\_ nays.)

\_\_\_\_\_ 24. Caption ordered amended to conform to body of bill.

\_\_\_\_\_ 25. Senate and Constitutional 3-Day Rules suspended by vote of \_\_\_\_\_ yeas,  
\_\_\_\_\_ nays to place bill on third reading and final passage.

\_\_\_\_\_ 26. Read third time and passed by  
(a viva voce vote.)  
( \_\_\_\_\_ yeas, \_\_\_\_\_ nays.)

OTHER ACTION: OTHER ACTION:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_ 27. Returned to the House.

\_\_\_\_\_ 28. Received from the Senate (with amendments.)  
(as substituted.)

\_\_\_\_\_ 29. House (Concurred) (Refused to Concur) in Senate (Amendments) (Substitute) by a (Non-Record Vote) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting).

\_\_\_\_\_ 30. Conference Committee Ordered.

\_\_\_\_\_ 31. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, and \_\_\_\_\_ present, not voting).

\_\_\_\_\_ 32. Ordered Enrolled at \_\_\_\_\_

1071 1071 1071  
HOUSE 6

HOUSE OF REPRESENTATIVES  
1987 MAY -5 PM 6:19